

Title 35 Department of Revenue

Part II Alcohol Beverage Control

Subpart 1.	General and Administrative	
35.II.1.01	Chapter 01. Definitions	page 3
35.II.1.02	Chapter 02. Administrative Provisions	page 3
35.II.1.03	Chapter 03. Appeal Procedures	page 4
Subpart 2.	Enforcement	
35.II.2.01	Chapter 01. Violations	page 7
35.II.2.02	Chapter 02. Advertising and Promotions.....	page 7
35.II.2.03	Chapter 03. Permitted Premises Where Alcoholic Beverages Are Sold	page 7
35.II.2.04	Chapter 04. Hours and Days During Which Alcoholic Beverages Be Sold by Hotels, Restaurants, Clubs, Package Stores and Caterers	page 9
35.II.2.05	Chapter 05. Purchases and Sale of Distilled Alcoholic Beverages by On Premise Permittees	page 10
35.II.2.06	Chapter 06. Retailers Records	page 12
35.II.2.07	Chapter 07. Prohibited Conduct and Activities	page 12
35.II.2.08	Chapter 08. Employment of Persons Under 21 Prohibited	page 14
35.II.2.09	Chapter 09. Cooking Wines	page 15
35.II.2.10	Chapter 10. Restriction on Interest with Permittees and Division Employees	page 15
35.II.2.11	Chapter 11. Manufacturer's Representative.....	page 15
35.II.2.12	Chapter 12. Gifts, Gratuities, and Inducements	page 16
35.II.2.13	Chapter 13. Samples of Alcoholic Beverages	page 17
35.II.2.14	Chapter 14. Distribution	page 19
35.II.2.15	Chapter 15. Manufacturer (Rectifier)	page 19
35.II.2.16	Chapter 16. Qualifications for Agents	page 19
35.II.2.17	Chapter 17. Mutilation of Shipping Labels	page 20
35.II.2.18	Chapter 18. Regulations Setting Forth the Requirement of Automatic and Electronic Liquor and Wine Dispensing Systems	page 20
35.II.2.19	Chapter 19. Permittees, Employees and/or Agents Shall Not Be Visibly Intoxicated or Under the Influence of Any Alcoholic Beverage, Beer or Light Wine On Permitted Premises; No Consumption for Package Retailers on Permitted Premises; Limited Consumption for On-Premise Permittees Under Specific Circumstances	page 21
35.II.2.20	Chapter 20. Sales of Alcoholic Beverages by Approved Package Retailers to Other Retailers	page 21
35.II.2.21	Chapter 21. Governmental Affairs Representatives	page 23
35.II.2.22	Chapter 22. Exchanges, Credits and Refunds	page 23
35.II.2.23	Chapter 23. Sale of Soft Drinks, Ice, Juices, Mixers and Other	

	<i>Items</i>	page 24
35.II.2.24	Chapter 24. <i>Check Cashing</i>	page 24
Subpart 3.	Permitting	
35.II.3.01	Chapter 01. <i>Bonds</i>	page 25
35.II.3.02	Chapter 02. <i>Permit Limit</i>	page 25
35.II.3.03	Chapter 03. <i>Filing Fee</i>	page 26
35.II.3.04	Chapter 04. <i>Permittee Must Maintain Qualifications and Pay Taxes</i> ..	page 26
35.II.3.05	Chapter 05. <i>Permit Transfer</i>	page 26
35.II.3.06	Chapter 06. <i>Death or Disability of a Permittee</i>	page 27
35.II.3.07	Chapter 07. <i>Temporary and Qualified Resort Areas</i>	page 28
35.II.3.08	Chapter 08. <i>Common Carriers Reporting</i>	page 29
35.II.3.09	Chapter 09. <i>Qualifications of Employees and Managers</i>	page 29
35.II.3.10	Chapter 10. <i>Management Agreement</i>	page 30
35.II.3.11	Chapter 11. <i>Applicant Requirements</i>	page 31
35.II.3.12	Chapter 12. <i>Hotels</i>	page 32
35.II.3.13	Chapter 13. <i>Temporary Alcoholic Beverage Permits</i>	page 32
35.II.3.14	Chapter 14. <i>Caterer's Permits</i>	page 35
35.II.3.15	Chapter 15. <i>Alcohol Processing Permit</i>	page 36
Subpart 4.	Warehouse Operations	
35.II.4.01	Chapter 01. <i>Disposition of Inventory When Permit Is Revoked or Not Reissued or When Counties Vote to Go Back Under Prohibition Laws</i>	page 37
35.II.4.02	Chapter 02. <i>Uniform Prices</i>	page 38
35.II.4.03	Chapter 03. <i>Cash Payment</i>	page 38
35.II.4.04	Chapter 04. <i>Split Cases</i>	page 39
35.II.4.05	Chapter 05. <i>Special Order Procedures</i>	page 39
35.II.4.06	Chapter 06. <i>Importers, Vintners, and Distillers Warehouses</i>	page 40
35.II.4.07	Chapter 07. <i>Procedure for Listing Alcoholic Beverage Items</i>	page 41
35.II.4.08	Chapter 08. <i>Procedure for Delisting/Deleting Alcoholic Beverages</i> ...	page 42
35.II.4.09	Chapter 09. <i>Dual Packaging</i>	page 43
35.II.4.10	Chapter 10. <i>Bailment Procedures-Policies and Procedure of Mississippi Alcoholic Beverage Control Bailment Warehouse</i>	page 43
Subpart 5.	Native Wines	
35.II.5.01	Chapter 01. <i>Applicant Requirements</i>	page 46
35.II.5.02	Chapter 02. <i>Production</i>	page 47
35.II.5.03	Chapter 03. <i>Taxation</i>	page 47
35.II.5.04	Chapter 04. <i>Retail Operations</i>	page 48

Subpart 01 General and Administrative

Chapter 01 Definitions

100 Definitions

When used in this Regulation:

1. Alcoholic beverage means any alcoholic liquid, including distilled spirits, native wines and wine of more than 5% alcohol by weight, capable of being consumed by a human being. The term does not include wines of 5% or less of alcohol by weight and beer containing not more than 5% alcohol by weight pursuant to Miss. Code Ann. Section 67-1-5.
2. Bailment warehouse is a warehousing method whereby alcoholic beverages owned by the vendor are stored in the Liquor Distribution Center (LDC) for subsequent purchase by the Department and shipment to retail permittees.
3. Board of Tax Appeals means the three member appeal body as legally constituted and authorized by statute.
4. Chief of Enforcement means the head of the Alcoholic Beverage Control Division Enforcement Section or his designee.
5. Commissioner means the Commissioner of the Department of Revenue or his designee.
6. Department or Department of Revenue means the various offices, bureaus, and divisions of the Mississippi Department of Revenue that incorporate the functional duties and responsibilities of the Commissioner as authorized by law.
7. Director means the Director of the Alcoholic Beverage Control Division or his designee.
8. Division means the Alcoholic Beverage Control Division of the Department of Revenue and shall include its director, enforcement personnel and all other employees.
9. Executive Director means the Executive Director of the Board of Tax Appeals.
10. NABCA means the National Alcohol Beverage Control Association.
11. On-premise retailer permittee means any person issued a permit authorizing the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only pursuant to Miss. Code Ann. Section 67-1-51 1(c). The term includes qualified hotels, restaurants and clubs, common carriers and qualified resort area permittees.
12. Package retailer permittee means any person issued a permit authorizing such person to operate a store exclusively for the retail sale of sealed and unopened alcoholic beverages pursuant to Miss. Code Ann. Section 67-1-51 1(b).
13. Permit means any of the permits issued by the Department pursuant to Miss. Code Ann. Section 67-1-51.

101 (Reserved)

Chapter 02 Administrative Provisions

100 The Alcoholic Beverage Control Division is hereby empowered, authorized, and directed

to carry out fully the provisions of Miss. Code Ann. Title 67 and these regulations.

- 101 It is the intent of the Department that each and every one of these regulations, and parts thereof, are independent from the other; that each could stand alone; and to this end the provisions of these regulations, and parts thereof, are severable.
- 102 All records of any person holding a permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be open for examination at any time by the Department or its duly authorized agents.
- 103 (Reserved)

Chapter 03 Appeal Procedures

- 100 Pursuant to Miss. Code Ann. Section 67-1-72, certain decisions of the Department may be appealed. Any request for such appeal shall be made to the Board of Tax Appeals.
- 101 The following decisions of the Department may be appealed:
 - 1. Denial of an application
 - 2. Denial of a permit renewal
 - 3. Revocation of a permit
 - 4. Suspension of a permit
 - 5. Denial of an applicant for approved manager
 - 6. Denial of a request for qualified resort area status
 - 7. Revocation of a qualified resort area status
- 102 The procedures for filing an appeal shall be:
 - 1. The aggrieved person must submit a request for appeal in writing;
 - 2. The request must be submitted to the Executive Director of the Board of Tax Appeals and a copy must be sent to the Department; and
 - 3. The request must be made within fifteen (15) days of the date the person received notice from the Department.
- 103 If the aggrieved person fails to appeal within the fifteen (15) day period, the action of the Department shall take effect as set out in the notice.
- 104 The Department retains the authority to change its decision.
- 105 If the decision of the Department is due to an incomplete application, failure of the applicant to pay the annual privilege taxes and fees pursuant to Miss. Code Ann. Section 27-71-5 or failure of the applicant to post the required bond, then the decision of the Department does not constitute a denial and may not be appealed.
- 106 No permit shall be suspended or revoked until the permittee has been given reasonable notice of the reason for suspension or revocation. The permittee shall be given the opportunity to appeal the suspension or revocation to the Board of Tax Appeals.

- 107 The permittee may waive his rights to reasonable notice and/or the opportunity to a hearing by agreeing to a suspension or revocation as offered by the Department.
- 108 If an applicant fails to timely request a hearing after notification of the request for suspension or revocation, the applicant is considered to have had an opportunity for a hearing.
- 109 (Reserved)
- 200 If an application for renewal of a permit has been denied by the Department for any reason other than incompleteness, failure to pay applicable privilege taxes and fees or failure to post any required bond, the permittee may continue to operate under the permit until the last of the following dates:
1. The date on which the permit expires;
 2. The date on which the time period for filing an appeal of the denial to the Board of Tax Appeals expires;
 3. The date of withdrawal of a timely filed appeal to the Board of Tax Appeals; or
 4. The date on which the permittee receives the notice of the Board of Tax Appeals affirming the denial of the permit renewal.
- 201 If the Board of Tax Appeals reverses the Department's decision to deny the renewal, the Department shall renew the permit and issue the permit from its last expiration date.
- 202 The Department has the authority to appeal the decision of the Board of Tax Appeals to chancery court pursuant to Miss. Code Ann. Section 67-1-39. If the court enters a final decision and/or order reversing the decision of the Board and affirms the denial of renewal of the permit, the permit shall be deemed denied and the permittee is not authorized to sell alcoholic beverages under that permit after the date the court decision becomes final and is not subject to any further appeal.
- 203 (Reserved)
- 300 The Department has the authority to approve or deny applications for qualified resort status as well as to revoke a current qualified resort status. Appeals for issues related to qualified resort status may be made by the applicant or permit holder; the county or municipality where the qualified resort status is located; or by any person objecting to the qualified resort area.
- 301 The Department has the discretion to publish notice of its decision to revoke approval of a qualified resort area in the same manner as provided in Title 35, Part II, Subpart 03, Chapter 07 of the Mississippi Administrative Code as it relates to approval of a qualified resort area. The fifteen (15) day period for appeals will begin on the date the notice is first published. If an appeal is not filed within this fifteen (15) day period, the decision of the Department is final.

- 302 Any county or municipality where a proposed qualified resort area is to be located or where a qualified resort area is currently located may appeal the decision of the Department to deny the request for approval or the revocation of the resort areas status. Such appeal shall be made to the Board of Tax Appeals and shall follow the procedures provided in Paragraph 101 of this Chapter.
- 303 (Reserved)
- 400 Any other person may also request a hearing before the Board of Tax Appeals related to:
1. Objections to an application for a qualified resort status;
 2. Objections to the transfer of an existing permit; or
 3. Objections to the issuance of any permit with the exception of a temporary retailer's permit.
- 401 There will be no hearing in cases where the application is denied by the Department and the applicant does not appeal the Department's decision or if the applicant withdraws the application; or if the county or municipality where the proposed qualified resort area is located does not appeal the Department's decision.
- 402 If the Department denies the application, then the procedures found in this chapter for appeal of a denial of an application shall be in effect. The Department will advise the Executive Director and the applicant of any objection to the application and the Board of Tax Appeals shall schedule a hearing on the objection and a hearing on the appeal at the same time.
- 403 If the Department approves the application, then the Department will advise the applicant and the Executive Director of the request for a hearing on an objection to the application. The Board of Tax Appeals shall schedule a hearing on the objection.
- 404 The Department has the authority to approve the application if the person objecting to the application withdraws the request for hearing.
- 405 A request for a hearing on the objection must be filed with the Department within fifteen (15) days from the first date of publication of the notice of application pursuant to Miss. Code Ann. Section 67-1-53.
- 406 (Reserved)
- 500 Any person who has an interest in any alcoholic beverages or raw materials which the Department intends to dispose of under Miss. Code Ann. Section 67-1-18 shall be given a reasonable notice of the Department's proposed disposal. Such person may request a hearing before the Board of Tax Appeals to establish a right or claim to the property.
- 501 Request for an appeal shall follow the same procedures set out in paragraph 101 of this Chapter.

502 If a request is not received within the fifteen (15) day period, then the Department may order the property to be disposed of pursuant to Miss. Code Ann. Section 67-1-18.

503 (Reserved)

Subpart 02 Enforcement

Chapter 01 Violations

100 Any person, firm, association, corporation, LLC, hotel, restaurant, or club defined in the Local Option law that shall violate any of the provisions of the law, or knowingly permit the violation of the law upon its premises, and as a result of the violation their permit is revoked, shall not be eligible to obtain any permit provided pursuant to Miss. Code Ann. Section 67-1-51 for a period of twelve (12) months after the date the revocation becomes final.

101 Unless otherwise provided by law, the Department may revoke or suspend any permit issued for a violation by the permittee or an agent or employee of the permittee of any provisions of the Local Option law or of any of the provisions of the regulations promulgated under it by the Department. In taking such action the Department may consider prior offenses committed by the permittee and/or its agents or employees within a period of two (2) years from the date of the most recent offense.

102 In addition to suspension or revocation of permits, the Department may impose fines not to exceed one thousand dollars (\$1,000.00) upon any person, firm, association, corporation, LLC, hotel, restaurant, or club for violations of any of the provisions of the regulations promulgated by the Department under the Local Option law. Failure of a permittee to pay fines within a time designated by the Department will result in revocation of the permit. Failure of a manufacturer representative to pay fines may result in the suspension of the representative's products from sale in the State.

103 (Reserved)

Chapter 02 Advertising and Promotions

100 No person, firm or corporation shall originate advertisements in dry counties of this State, pursuant to Miss. Code Ann. Sections 67-1-1, 67-1-13, 67-1-15 and 67-5-5, when such advertisement deals with an alcoholic beverage, including but not limited to advertisements by newspapers, radio, television, circular, dodger, word-by-mouth, signs, billboards, displays or any other advertising media.

101 All alcoholic beverage advertising, and any industry related promotions such as contests and sweepstakes should be submitted to the Chief of Enforcement for prior approval.

102 (Reserved)

Chapter 03 Permitted Premises Where Alcoholic Beverages are Sold

- 100 No person shall sell or offer for sale any alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.
- 101 In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcoholic beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place of sale of the aforesaid alcoholic beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.
- 102 The minimum distances, as provided in Miss. Code Ann. Section 67-1-51(3), shall be measured from the nearest point of the building housing the church, school, kindergarten or funeral home to the nearest point of the premises which consist of the floor planned area to be licensed. This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.
- 103 If a church, school, kindergarten or funeral home moves to a location within the stated distance requirements, any permit issued to a business prior to the move will remain lawful unless the location ceases operations for six (6) months. Transfer of a permit is not considered ceasing operations.
- 104 A church or funeral home may waive the distance restrictions in favor of allowing the issuance of a permit authorizing the sale of alcoholic beverages that would otherwise be prohibited under the minimum distance requirements. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver. The waiver shall be filed with and verified by the Department before becoming effective.
- 105 A door must be located at or near the front of every place of business selling packaged alcoholic beverages. The back door to such place of business or storage area must be kept locked at all times except when merchandise is being received. Exceptions will be made in cases of orders or ordinances of a governing authority forbidding the locking of a back door because of a fire hazard.
- 106 Surplus stock must be stored in the same building where the retail business is being conducted unless a waiver is obtained as provided in Paragraph 109 below. Nothing shall prohibit the owner or manager of such a place of business from erecting a partition between the retail and the storage area..
- 107 In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may use a common storage facility located and identified on the floor plan area for all alcoholic beverages purchased. A permittee utilizing a common storage facility for a business establishment with multiple permits must submit a floor plan of the common storage facility that

designates where alcoholic beverages purchased under each permit will be stored. Co-mingling of the permitted inventories by the multiple permittee shall result in the suspension or revocation of the permits.

- 108 All sales of alcoholic beverages shall be made inside the permitted premises.
- 109 Under very limited circumstances, a permittee may request a waiver to authorize the storage of surplus alcoholic beverages in a location that is separate from the building where the retail business is being conducted. Any off-site storage exception or waiver request must be approved by the Division. A request for a waiver must meet the following requirements:
1. The off-site storage location must meet all distance requirements of Miss. Code Ann. Section 67-1-51 in the same manner as the retail premises as well as all local ordinances pertaining to zoning. Further, the proximity of the off-site storage location to the permittee's retail premises shall be considered.
 2. All entrances and any other access to the storage facility must remain secure and locked at all times, except when merchandise is being received or transferred to the retail location. A copy of the floor plan of the off-site location may be requested, as well as a copy of the permittee's deed or lease to ensure that permittee can accomplish restricted access to the off-site location.
 3. The exclusive use of the off-premises location must be storage of surplus alcoholic beverage inventory and items authorized for sale by Title 35, Part II, Subpart 2, Chapter 23 of the Mississippi Administrative Code. There shall be no other use of the off-site storage location.
 4. A permittee utilizing an off-site storage location for a business establishment with multiple permits must submit a floor plan of the facility that designates where alcoholic beverages purchased under each permit will be stored at the off-premises location. Co-mingling of the permitted inventories by a multiple permittee shall result in the suspension or revocation of the permits.
 5. The permittee must demonstrate a specific business necessity for the waiver request as it relates to the shelf/storage space and inventory cycles of the permittee's retail premises.
- 110 In addition to the above, any other documentation from the permittee deemed relevant for consideration of a waiver may be requested to ensure compliance with all laws and regulations. Any waiver granted pursuant to this regulation may be subject to special conditions imposed by the Department. Any waiver for an off-site storage location may be revoked at any time. The permittee will be notified of the revocation in writing.
- 111 (Reserved)

Chapter 04 Hours and Days During Which Alcoholic Beverages May Be Sold by Hotels, Restaurants, Clubs, Package Stores and Caterers

- 100 On-premise permittees, clubs or caterers may make sales of alcoholic beverages at the permitted location between the hours of 10:00 a.m. and midnight, except that no sales or

deliveries of alcoholic beverages shall be made to any person on Sundays. It is further provided that on New Year's Eve, on- premises permittees, clubs or caterers may be allowed to remain open until 1:00 a.m., January 1st. In the event that New Year's Eve falls on Sunday, on-premises permittees, clubs or caterers may make sales of alcoholic beverages at the permitted location between the hours of 1:00 p.m. and 1:00 a.m. Provided, however, the governing body of any municipality may petition the Department to permit sales by on-premises permittees, clubs or caterers located within the municipality at other times, and also the hours of sale may, with the approval of the Department, be either shortened or extended. In the event that a municipality or county would prefer not to recognize the extension of hours on New Year's Eve when the holiday falls on Sunday, the municipality or county shall notify the Chief of Enforcement, in writing, no later than September 1 of that year. The Board of Supervisors of any county may file such a petition with the Department for on-premises permittees, clubs or caterers located outside a municipality. All such petitions must be accompanied by a certified copy of the order of the municipal governing authority or the Board of Supervisors requesting such permission. Regardless of the date of request, any extension will not be effective until approved by the Department.

- 101 Resort areas are exempt from the above provisions requiring the sale of alcoholic beverages to be between the hours of 10:00 a.m. and midnight. However, the governing body of any municipality may petition the Department to designate the hours of sale of alcoholic beverages for resort area on-premises permittees or clubs located within the municipality. The Board of Supervisors of any county may also file such a petition for resort area on-premises permittees or clubs located outside a municipality. Upon receipt of the above mentioned petitions, or upon its own motion, the Department shall consider the same and set whatever hours of sale it deems appropriate for any particular resort area. All such petitions must be accompanied by a certified copy of the resolution of the municipal governing authority or the Board of Supervisors requesting such permission.
- 102 It shall be unlawful for any holder of a package retailer's permit , for any employee or agent thereof, to sell, give away, deliver or barter any alcoholic beverages before 10:00 a.m. and after 10:00 p.m., or on any Sunday, or on Christmas Day.
- 103 (Reserved)

Chapter 05 Purchase and Sale of Distilled Alcoholic Beverages by On-Premises Permittees

- 100 All sales of alcoholic beverages by on-premises permitted places of business shall be made by the drink, EXCEPT bottles of distilled alcoholic beverages which may be sold as follows:
1. At such businesses being operated in connection with hotels and motels which may sell such beverages in bottles for delivery to and consumption in rooms of registered guests.

2. On-premises retailer clubs may sell exclusively to its members such beverages in bottles for delivery and consumption only upon the club's permitted premises. Each bottle must clearly reflect the club member's name that purchases the bottle.
- 101 All sales of alcoholic beverages by on-premises permittees shall be for consumption in the licensed premises only. The licensed premises shall consist of the area designated in the floor plan. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may submit an all inclusive floor plan of the entire enclosed area. The Department shall have the discretion to allow the consumption of alcoholic beverages throughout the permitted area regardless of where on the premises the beverages are purchased as long as the Department is satisfied that the permittee is the actual owner of the entire premises and that there is sufficient controlled access to the premises.
- 102 No on-premises permittee shall sell or allow consumption of alcoholic beverages inside the premises where the business is conducted, such as the lounge, bar or restaurant except during hours when alcoholic beverages may be legally sold, as set forth in Title 35, Part II, Subpart 02 Chapter 4 of the Mississippi Administrative Code. However, alcoholic beverages may be consumed during other hours at a permittee sponsored Christmas party for his employees or on Sunday after 1:00 p.m., in a privately leased banquet room of a permittee with prior written approval from the Department. An application, in writing, stating the date, beginning and ending time of the event, the number of employees (or persons, when applicable) anticipated to attend, and a copy of the lease agreement (when applicable) must be submitted to the Chief of Enforcement by the permittee two weeks prior to the Christmas party or lease agreement. Christmas parties are restricted to permittee, employees and their guest. No requests will be approved unless the permittee is in compliance with all rules and regulations of the Department.
- 103 No on-premises permittee shall allow alcoholic beverages to be brown-bagged by a consumer/customer on the premises where the business is conducted. However, this restriction does not apply to privately leased banquet rooms or privately leased hospitality suites. If a private banquet room or hospitality suite is leased to an individual and said individual desires to bring his own alcoholic beverages (brown-bagging), the permittee is strictly prohibited from providing or serving alcoholic beverage from their stock inside the lease area. On Sundays, when the Department specifically authorizes consumption as described above, a consumer may ONLY brown-bag alcoholic beverages previously obtained from a package retailer in the State. All alcoholic beverages remaining in a leased banquet room or hospitality suite after the expiration of the lease shall be destroyed by the permittee.
- 104 No on-premises permittee shall allow its patrons to remove any alcoholic beverages sold at its place of business, except that a patron may remove one bottle of wine from the licensed premises when:
1. The patron consumed a portion of the bottle of wine in the course of a meal purchased on the licensed premises;
 2. The permittee securely reseals the bottle;

3. The bottle is placed in a bag that is secured in a way as to be visibly apparent when the bag is opened; and
4. A dated receipt for the purchase of the wine and meal is available.

- 105 On-premises permittees operating a hotel or motel that elect to place mini bars in the rooms of registered guests are held responsible for keeping the mini bars locked with the issuance of keys restricted to guests who present a valid identification card verifying that he or she is over 21 years of age.
- 106 No permittee may refill any alcoholic beverage container with an alcoholic beverage.
- 107 When a patron requests a specific brand of alcoholic beverage, no permittee may dispense an alternate brand of alcoholic beverage without first notifying the customer that the requested brand is not available.
- 108 (Reserved)

Chapter 06 Retailer's Records

- 100 Retailers must keep records. It will be the duty of every retailer of alcoholic beverages to keep and preserve for a period of three (3) years adequate records of the gross proceeds of sales of the business. The retailer shall also keep itemized invoices for all merchandise purchased (and whether procured from local or other retail or wholesale outlets), all bank statements and cancelled checks, and all other books or accounts as may be necessary to determine the financial position of the business. All itemized purchase invoices and tickets shall bear the date of purchase, name of the seller and purchaser. Cash register tapes may not be used in lieu of itemized invoices for record purposes. In addition to the above records, restaurants shall keep records of gross sales in three (3) separate categories; food, beer and alcoholic beverages. Such records shall be adequate in substance to conform with generally accepted accounting practices and all records shall be written in the English language. All records shall be open for examination at any time by the Director, any authorized employee of the Department, or its duly authorized agent.
- 101 The records provided for in this regulation and applicable Federal regulations shall be kept at the retailer's place of business or at the office of his attorney or accountant within this state. Failure to keep and allow examination of such records shall subject the permittee to immediate forfeiture of license.
- 102 Restaurants located within a Qualified Resort Area are exempt from the food sale requirement as provided by Miss. Code Ann. 67-1-5 but must maintain itemized records as any other restaurant permittee.
- 103 (Reserved)

Chapter 07 Prohibited Conduct and Activities

- 100 No person holding an alcoholic beverage on-premises permit, and no agent, associate, employee, representative, entertainer or servant of any such permittee shall do, or permit, any of the following activities or events on or about the licensed premises:
1. Fraternize by sitting at tables with customers while on duty; or to employ persons to solicit patrons for drinks, to accept drinks from patrons and receive a commission or any other remuneration in any other way.
 2. Permit any prostitute to frequent the licensed premises, or to solicit patrons for prostitution.
 3. Permit any person to remain on the premises while such person is unclothed or in such attire, costume or clothing to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, the pubic hair area, anus, cleft of the buttocks, vulva, penis or genitals. Furthermore, no female permittee or any female agent, associate, employee, representative, servant, or entertainer of said permittee shall wear such attire, costume or clothing on the licensed premises which reveals any part of the female breast below the top of the areola and such attire, costume, clothing or attachment thereto is extraordinarily designed or displayed to specifically accentuate the breasts.
 4. Encourage or permit any person, for entertainment purposes, to touch, caress or fondle the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
 5. Permit any person to wear or use any device or covering, exposed to view, which simulates the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
 6. Permit live entertainment or conduct which is lewd, immoral or offensive to public decency, including:
 - a. Any live act or performance of, or which simulates:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, or oral copulation, flagellation or any sexual act prohibited by law.
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, penis or genitals.
 - iii. The displaying of the pubic hair, the pubic hair area, anus, vulva, penis, genitals or any portion of the female breast below the top of the areola.
 - iv. The use of any artificial device or object to depict any of the prohibited activities described above.
 - b. Any live act or performance which appeals primarily to sexually oriented, lustful, prurient, or erotic interest including, but not limited to, the following: erotic dancers; male or female strippers; topless dancers (male or female); dancers where clothes are removed to reveal portions of the body and constituting a strip act or simulation thereof; contests or exhibitions such as wet t-shirt, biggest breast, biggest bulge, body beautiful, best leg, hairiest chest, best tan, best hiney, mud wrestling, tight jeans, and contests or exhibitions involving the use of swim wear, lingerie or similar attire.
 7. The showing of films, still pictures, electronic reproduction, or other visual reproductions depicting:

- a. Acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts which are prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttocks, anus, penis or pubic area.
 - c. Scenes wherein a person displays the vulva, anus, penis or genitals or pubic area.
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
8. Allow disorderly or boisterous conduct or the use of profane or vulgar language; provided this regulation shall not apply to remarks made by entertainers/entertainment groups in the course of their performance unless otherwise prohibited by the laws of the State of Mississippi, and as long as:
- a. The performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter the portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons, and
 - b. That any use of profane language, addressed in paragraph (8) above, is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises or beyond the premises.
9. On-premises permitted places of business may charge an admission fee, a cover or minimum charge, or an entertainment fee but shall not require the purchase of alcoholic beverages in order for a customer to enter or remain in such permitted place.

101 The permittee shall be responsible at all times for any and all of the aforesaid actions which may take place in any permitted establishment whether he or his manager is present at such times or not. The Department may revoke or suspend the license of any permittee for the violation of any of the provisions of this chapter. Any questions regarding the permissibility of activities or conduct governed by this regulation should be submitted, in writing, to the Chief of Enforcement.

102 Permittees shall be accountable for any criminal conduct which occurs or is suffered to occur on any part of the licensed premises. When the Department finds that such criminal conduct is allowed, caused, permitted, or suffered to occur by the permittee, the permit shall be subject to suspension or revocation. The Department may take into consideration the reports of other local law enforcement agencies and the District Attorney when reviewing a violation of this regulation.

103 (Reserved)

Chapter 08 Employment of Persons Under Age 21 Prohibited

- 100 No holder of a package retailer's permit shall employ in the sale of alcoholic beverages or in the handling thereof (except to unload in sealed cartons, boxes, or similar shipping packages, which packages shall remain sealed at all times they are being handled) any person under the age of twenty-one (21) years old.
- 101 A person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if such activities are in the scope of his employment by the holder of an on-premises retailer's permit. The employer must keep record of the removal of minority for all employees as described above. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity as a bartender. This regulation is not intended to prohibit a person under twenty-one (21) from working as an entertainer.
- 102 (Reserved)

Chapter 09 Cooking Wines

- 100 All wines containing more than five percent (5%) alcohol by weight are considered an alcoholic beverage and shall be possessed, transported, sold, purchased, etc., in accordance with and under the provisions of the Local Option law, except salted wines which contain not in excess of twenty-one percent (21%) alcohol by volume and not less than 1.5 grams of salt per 100 cubic centimeters. Such wines are not considered capable of being consumed as a beverage by a human being and, therefore, are exempt from the provisions of the Local Option law.
- 101 (Reserved)

Chapter 10 Restriction on Interest of Permittees and Division Employees

- 100 No officer, agent or employee assigned to the Division nor any permittee shall at any time hold stock in any business engaged in the manufacture, distillation, importation or rectifying of alcoholic beverages, nor shall such person, other than the holder of a permit, own any interest in any place of business licensed to sell alcoholic beverages.
- 101 (Reserved)

Chapter 11 Manufacturer's Representative

- 100 A manufacturer's representative, who shall be the manufacturer's control state manager or an executive officer of the company, shall be recognized by the Division only after proper application for registration has been made by the manufacturer and approved. In either case, the individual designated as a manufacturer's representative and approved to do business with the Division must be a full time employee of the manufacturer.

- 101 The manufacturer's registered representative may authorize persons to work for the manufacturer within this state; each of whom must be registered with the Division. As employees are added or replaced it will be the responsibility of the manufacturer to register or have deleted the names of such employees with the Division. Such employees may represent more than one manufacturer.
- 102 The manufacturer's registered representative shall be held responsible for all activities, including the personal conduct, of all employees of the manufacturer in connection with the representation of their business in this state. Every employee or representative of a manufacturer shall observe state laws and the rules and regulations of the Division.
- 103 The registration of a manufacturer's representative and his employees may be suspended and the manufacturer's products may be delisted by the Division and/or a civil penalty not to exceed \$1,000.00 may be imposed at the direction of the Department if it shall appear to the satisfaction of the Department that the law or the policies and/or regulations of the Division have been violated by the manufacturer, the manufacturer's registered representative, or any employee of the manufacturer working in the state.
- 104 This regulation does not affect the manufacturer's employment of legal counsel regularly engaged in the practice of law in matters concerning the application and interpretation of law. Further, this regulation does not apply to manufacturer's representatives in instances where the Division solicits special orders only for its product inventory.
- 105 A distiller's, distributor's, rectifier's, or importer's representative or employee shall be recognized under the same conditions established in this regulation for a manufacturer's representative.
- 106 (Reserved)

Chapter 12 Gifts, Gratuities, and Inducements

- 100 Pursuant to Miss. Code Ann. Section 67-1-77(2), no holder of a manufacturer's or wholesaler's permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, brewer, rectifier, blender, or bottler shall make an offer of gifts, gratuities, or inducements of any kind whatsoever to any retailer in Mississippi when such gifts or gratuities are in any way connected with or associated with any phase of the purchase, sale, marketing, distribution or control of alcoholic beverages within the State of Mississippi, except as provided below.
- 101 The holder of a manufacturer's or wholesaler's permit, or any distiller, wine manufacturer, brewer, rectifier, blender, bottler, or anyone connected with such businesses, may furnish, subject to the same requirements and limitations of the Federal Tied House Regulations and Interpretations and not otherwise contrary to state law, the following: wine list, glassware, retailer equipment, inside signs, supplies, services, educational seminars, product displays, and advertising specialties to Mississippi alcoholic beverage retailers, not to exceed nominal value.

- 102 Educational seminars, trade shows or tasting events for licensed retailers sponsored by any employee or registered agent of any alcoholic beverage manufacturer, distiller or wholesaler, are permissible at licensed on-premise establishments, establishments holding any temporary permit, or at conventions sponsored by and on behalf of alcoholic beverage retailer associations. All alcoholic beverages consumed at such seminars, trade shows, or tastings, other than approved conventions, must be furnished exclusively by the on-premise permittee on his licensed premises. Manufacturer's representatives may transport and provide alcoholic beverages for tasting and exhibition at any convention sponsored by an alcoholic retailer association convention as long as the alcoholic beverages were previously purchased from a licensed retailer in this state. Samples of new products that are not available through a licensed retailer must follow the procedures for samples found in Title 35, Part II, Subpart 2, Chapter 13 of the Mississippi Administrative Code. Consumption of alcoholic beverages at all seminars, trade shows and tasting events is limited to the hours of consumption set forth in Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code.
- 103 Any educational seminar, trade show or tasting event given for the general public (where alcoholic beverages are sampled), regardless of who sponsors the program, is limited to licensed on-premise establishments, or an establishment holding a temporary permit, with the permittee exclusively furnishing the alcoholic beverages.
- 104 Any person sponsoring an alcoholic beverage seminar or trade show occurring at a location in a wet county not possessing any on premise alcoholic beverage permit or a temporary permit shall not distribute alcoholic beverages for tasting purposes or any other purpose.
- 105 Alcoholic beverage samples, coupons, rebates or other inducements, which require proof of purchase, to anyone are strictly prohibited. Nothing in this regulation is intended to prohibit the type of activity permitted by Title 35, Part II, Subpart 2, Chapter 13; and Subpart 4, Chapter 9 of the Mississippi Administrative Code.
- 106 Nominal value, as used in this chapter, shall be based on a per brand basis and shall mean the industry's purchase price or a reasonable wholesale value not to exceed the dollar limitations placed on said or like items pursuant to the Federal Tied House Regulations and adjustments made by the Director of the Alcohol and Tobacco Tax and Trade Bureau.
- 107 (Reserved)

Chapter 13 Samples of Alcoholic Beverages

- 100 A manufacturer's representative and his employees, as described in Title 35, Part II, Subpart 2, Chapter 11 of the Mississippi Administrative Code may furnish one sample of a new product to any permitted retailer. This sample may be given to the permittee or to a manager on behalf of the permittee. Distribution of samples may occur only at the

permitted business and only after approval of the Department. Samples are to be used for the promotion of that specific product and may not be used as a gift or an inducement to purchase other products.

- 101 A sample of an alcoholic beverage is defined as an alcoholic beverage not previously purchased by that permittee. The size limit per item of samples of alcoholic beverages allowed is to be determined by federal guidelines and/or regulations.
- 102 Each bottle of product distributed as a sample must be clearly labeled with the word "SAMPLE".
- 103 Products used for samples must be delivered to the LDC Warehouse for distribution to the manufacturer's representative. The cases containing sample alcoholic beverages must be marked or stamped on at least two (2) sides of the case in bold letters with the word "SAMPLE" by the manufacturer prior to shipment. A separate bill of lading must accompany each case of sample alcoholic beverages and the word "SAMPLE" must be clearly marked on said bill of lading. Samples must be removed from the LDC Warehouse within 10 working days of receipt. Failure of the manufacturer's representative to remove samples from the LDC Warehouse upon the expiration of ten (10) days will result in destruction of said products. The Division will not be responsible for any damages occurring while said products are stored in the LDC Warehouse.
- 103.1 The manufacturer's representative is responsible for paying all freight costs, excise taxes, mark-up, sales or use taxes, and any other costs assessed on sample products upon receipt of that product from the LDC Warehouse. Distribution of any product on which taxes have not been paid is strictly prohibited.
- 104 The manufacturer's representative and his employees shall, on or before the fifteenth day of each month, file a report with the Enforcement Section detailing the distribution of sample products for the preceding month. This report must also include the storage location and amount, by brand, of all sample alcoholic beverages held by the manufacturer's representative or his employees pending distribution.
- 105 The willful failure to file such reports, the falsification of such reports, or the distribution of product samples inconsistent with the law or with this regulation may result in the suspension of the registration of a manufacturer's representative and his employees. In addition, the Department may delist the manufacturer's products.
- 106 A manufacturer's representative, or his employee, may transport sample alcoholic beverages anywhere within the state provided that such person has obtained authorization for transport from the Division. Such products must be stored outside the passenger compartment of a motor vehicle or in an enclosed container.
- 107 Package retailers may not consume samples of alcoholic beverages on their licensed premises.

- 107.1 On-premises retailers, their managers and their employees, may consume sample alcoholic beverages only during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling.
- 107.2 An on-premises permittee may assemble other permittees, along with their licensed managers or employees, for purposes of sampling alcoholic beverages. Consumption of sample alcoholic beverages must take place during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling. On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.
- 108 No alcoholic beverage products distributed as samples may be sold, offered for sale, or distributed to any person by any permittee, manager, or employee of the permittee.
- 109 (Reserved)

Chapter 14 Distribution

- 100 No one except the holder of a permit or his authorized agent shall be allowed to purchase or request the shipment of alcoholic beverages by the Division.
- 101 (Reserved)

Chapter 15 Manufacturer (Rectifier)

- 100 No manufacturer's (rectifier's) permit shall be issued until satisfactory evidence is furnished that the applicant holds all permits or authorization required by the Federal Government.
- 101 Duplicate copies of monthly returns, transcripts, notices or other data, as required by the Federal Government, must be furnished to the Division not later than the 10th of each month. In addition, manufacturers (rectifiers) shall furnish the Division duplicate copies of the bills of lading covering all shipments of the products of the permittee.
- 102 All laws, rules and regulations of the Federal Government, or any subsequent modification thereof, applicable to the manufacture (rectification) of distilled spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of the Division.
- 103 (Reserved)

Chapter 16 Qualifications for Agents

- 100 No person shall be employed as an agent of the Division unless he/she is of sound moral character and has reached the age of 21 years and meets the qualifications as set forth by the Mississippi State Personnel Board. The applicant must have a Bachelor's degree

from an accredited four-year college or university in criminal justice, law enforcement, criminology, police science, police administration or a directly related field. Alternatively, the applicant must have a Bachelor's degree from an accredited four-year college or university and possess a current State of Mississippi Law Enforcement Professional Certificate. Any agent of the Division is subject to assignment to any location within the State of Mississippi consistent with the mission needs of the agency for alcoholic beverage enforcement.

101 (Reserved)

Chapter 17 Mutilation of Shipping Labels

100 No permittee or employee of the permittee shall mutilate, destroy or remove shipping labels or other information stamped or otherwise affixed to any case of alcoholic beverages delivered to the permittee from the LDC Warehouse nor shall any permittee or employee of the permittee allow the purchaser of alcoholic beverages to remove the labels or information while on the permittee's premises.

101 Any action described above will be considered a violation of the regulations and will result in fines, suspension or revocation.

102 (Reserved)

Chapter 18 Regulations Setting Forth the Requirements of Automatic and Electronic Liquor and Wine Dispensing Systems

100 The installation of automatic and electronic dispensing systems by on-premises permittees is authorized, provided that the following requirements are complied with:

1. Such equipment must avoid an in-series hook-up which would permit the contents to flow from bottle to bottle before reaching the dispensing spigot or nozzle. Multiple bottles of alcoholic beverages utilized to supply a single line or tube in an in-series hook-up must be of identical brand and content.
2. Such equipment must dispense from the original containers, as received from the Division. Once the contents flow from the original containers, as received from the Division, into any such equipment, said contents shall not flow from such equipment into any other containers other than those used by said establishment for sale by the drink.
3. The permittee shall maintain records that reflect the brands and quantities of alcoholic beverages used in such systems.
4. The premises, including any places of storage, where the alcoholic beverages are dispensed, shall be subject to inspection by the Division or law enforcement officers during all business hours for the purpose of inspection or for examination of any books and records required to be kept by on-premises permittees. Where any part of such installation is in a locked room or locked cabinet, permittees shall have a key to said room or cabinet available on the premises, and, upon request by any authorized representative of the Division or a law enforcement officer, such

permittees or any employee thereof shall open said storage rooms, cabinets, or other places for such inspection during regular business hours.

5. The filing of an application for the use or alteration of such systems is required. No system shall be placed in service until approval is received from the Division.
6. The use or alteration of such equipment without prior approval from the Division shall constitute good and sufficient cause for the suspension or revocation of the permit.

101 (Reserved)

Chapter 19 Permittees, Employees and/or Agents Shall Not Be Visibly Intoxicated or Under the Influence of Any Alcoholic Beverage, Beer or Light Wine on Permitted Premises; No Consumption for Package Retailers on Permitted Premises; Limited Consumption for On-Premise Permittees Under Specific Circumstances

100 Except as authorized under Title 35, Part II, Subpart 2, Chapter 13 of the Mississippi Administrative Code, no package retailer permittee, nor employee or agent of the permittee, will be permitted on the premises of the permitted place of business pursuant to Miss. Code Ann. Section 67-1-51 while consuming or while under the influence of an alcoholic beverage, beer or light wine.

101 No on-premise permittee, nor employee or agent thereof, will be permitted on the premises of the permitted place of business pursuant to Miss. Code Ann. Section 67-1-51 while intoxicated or visibly under the influence of an alcoholic beverage, beer or light wine. In addition, no on-premises permittee, nor employee or agent thereof who is on duty, will be permitted on the premises of the permitted place of business pursuant to Miss. Code Ann. Section 67-1-51 while consuming an alcoholic beverage, beer or light wine. On duty for purposes of this regulation shall mean visibly working or the absence of another approved manager who is visibly working and exercising control over the operation of the permitted place of business. Intoxicated for purposes of this regulation shall mean above the legal limit which is established by the Implied Consent Law found in Miss. Code Ann. Section 63-11-1 et seq.

102 The Department may revoke or suspend the license of any package or on-premise permittee for the violation of the provisions of this chapter. The failure of any permittee, or employee or agent thereof, to submit to an intoxilyzer or field sobriety test after being charged with being intoxicated, and having been requested to do so by agents of the Division or any other duly authorized law enforcement official of the State of Mississippi, will be deemed prima facie proof that the permittee, or his agent or employee, was intoxicated.

103 (Reserved)

Chapter 20 Sales of Alcoholic Beverages by Approved Package Retailers to Other Retailers

- 100 Pursuant to all Federal requirements and Miss. Code Ann. Section 67-1-41, permittees may purchase alcoholic beverages from a package retailer holding applicable Federal wholesale permits and who have been approved by the Department to make wholesale sales of alcoholic beverages. In order to buy at wholesale from a package retailer, an on premise retailer must present a permit identification card, which will be issued by the Division.
- 101 Any qualified package retailer may apply with the Department for approval to engage in wholesale transactions with permittees. The permittee must meet all federal permit requirements and must maintain all state permit qualifications as set forth in Miss. Code Ann. Section 67-1-57 in order to qualify for approval by the Department. The package retailer's authorization to make wholesale sales may be suspended or revoked for any violation of the Local Option laws, or the rules and regulations.
- 102 Each package retailer authorized to sell at wholesale shall use invoices provided by the Division for sales to other permittees and shall maintain copies of said invoices for a period of three years. Each sales invoice must reflect all requested information at the time of delivery to the purchaser.
- 103 Purchases made from authorized package retailers must be completed between the hours of 10:00 a.m. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. New permit holders must make their initial order of alcoholic beverages with the Alcoholic Beverage Control before making a purchase from an approved wholesaler.
- 104 An authorized wholesale package retailer may deliver product to permittees between the hours of 10:00 a.m. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. Product must be delivered in a concealed cargo area of a vehicle or sufficiently covered so as to not be visible by the public.
- 105 Upon completion of the wholesale transaction or upon delivery of product to the purchaser, the seller must provide a copy of the sales invoice to the purchaser, and the invoice must remain with the seller or purchaser while transporting the purchased beverages to the purchaser's permitted location. The purchaser's copy of the sales invoice shall be maintained by the purchaser at his place of business for a period of three (3) years and, upon request, must be immediately provided to the Division or other law enforcement agency requesting same.
- 106 A package retailer authorized to make said wholesale sales shall forward a copy of the on premise sales invoices for a given month to the Division. This information must be postmarked or hand delivered by the 20th day of the month following the sale. Sales invoices reflecting wholesale sales made to other package retailers shall not be forwarded to the Division. The seller shall maintain a copy of all sales transactions (on premises and package retailers) for a period of three (3) years. Upon request of the Division or

other law enforcement agency, the retailer shall immediately produce said sales invoice to the requesting agency.

- 107 All purchases made by on premise permittees under this regulation shall be included in the calculation of the additional privilege fee levied pursuant to Miss. Code Ann. Section 27-71-5. For purposes of calculating the additional privilege fee, the price shall not be less than the price of the alcoholic beverages as listed in the Division's price book in effect at the time of the sale.
- 108 Transaction reports submitted to the Division shall be in a standard reporting format unless prior approval for business generated forms is given. Permittees that hold a wholesale permit and make no sales during the preceding period must file a report indicating no sales for that period.
- 109 (Reserved)

Chapter 21 Governmental Affairs Representatives

- 100 A holder of a manufacturer's or wholesaler's permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on premises retailer's permit.
- 101 Notice must be provided to the Division by providing a copy of the employment contract entered into by the manufacturer or wholesaler and the representative. The contract shall include a description of services to be rendered by the governmental affairs representative, and shall include the salary to be paid as well as the duration of the employment.
- 102 The representative shall register with the Office of the Secretary of State, and shall provide the Division with proof of such registration by providing certified copies of all information submitted to the Secretary of State.
- 103 One (1) year from the date of entry into the contract for employment as a governmental affairs representative, the representative shall submit an annual report to the Division, using required forms.
- 104 (Reserved)

Chapter 22 Exchanges, Credits and Refunds

- 100 Permittees holding package retailer's permits may allow a customer to return bottles of package liquor for exchange or refund as long as the liquor was, in fact, purchased from the permittee's business, and as long as a receipt reflecting that the liquor was sold to the patron by the permittee is presented by the patron.
- 101 A permittee may not issue a refund or allow an exchange for liquor purchased from any other source.

102 (Reserved)

Chapter 23 Sale of Soft Drinks, Ice, Juices, Mixers, and Other Items By Package Retailers

- 100 Package retailers may sell wine glasses, corkscrews, ice, soft drinks, juices, mixers, and other non-alcoholic beverages commonly used to mix with alcoholic beverages, for consumption off the premises.
- 101 Sales of ice must be limited to commercially bagged ice in original sealed and unopened bags containing five (5) or more pounds.
- 102 Soft drinks for purposes of this regulation are defined by Miss. Code Ann. Section 27-65-3 (1). Soft drinks include original commercially sealed and unopened containers. Fountain drinks are not considered soft drinks under this regulation.
- 103 Juices shall include fresh, frozen, or concentrated non-alcoholic beverages extracted from fruits and vegetables of all types packaged in original commercially sealed and unopened containers.
- 104 Mixers are non-alcoholic beverages in a liquid form commonly used to dilute or enhance an alcoholic drink or cocktail, packaged in original commercially sealed and unopened containers. All dry mixes are prohibited and shall not be sold by package retailers.
- 105 Wine glasses shall include glassware that is manufactured and marketed primarily for wine consumption as well as plastic stemware commonly used in drinking wine. Other types of plastic containers, styrofoam, and paper cups of all other types are not included and may not be sold or used for consumption on the premises. In addition, industry supplied consumer items may not be offered for sale by package retailers.
- 106 Sale of any items listed above shall in no way be used to promote, persuade, or influence the sale of alcoholic beverages. Therefore, the permittee cannot give as a gift or reduce the price of these items when the same is conditioned on the purchase of an alcoholic beverage.
- 107 Any questions regarding the permissibility of products intended for sale by package retailers governed by this regulation should be submitted, in writing, to the Chief of Enforcement.
- 108 (Reserved)

Chapter 24 Check Cashing

- 100 The holder of a package retailer's permit is authorized to cash checks for their face value without a charging fee, or to cash checks from time to time as an incident to a retail sale

or independently of a retail sale for a fee, not exceeding the fees provided by Miss. Code Ann. Section 75-67-501. A violation of Miss. Code Ann. Section 75-67-501 et seq. by a package retailer shall also constitute a violation of this regulation.

101 (Reserved)

Subpart 3 Licensing

Chapter 01 Bonds

100 The Department may require any person engaged in the business of manufacturing or retailing alcoholic beverages to enter into a bond under Miss. Code Ann. Section 27-71-21. The amount of bond that may be required of the holder of any retailer's permit under Miss. Code Ann. Section 27-71-21 shall be five thousand dollars (\$5,000.00). This bond shall be in such form as required by the Division.

101 New, revised, or different bonds may be required by the Division at any time for any carrier, manufacturer and/or distributor, and any holder of a retailer's bond.

102 If a retailer who has been required to obtain a bond by the Department receives notice that his bond is to be cancelled during the permit year, the permittee must immediately provide notification in writing that the bond is being cancelled and must provide copies of any documentation received by the permittee from the bonding company. Furthermore, the permittee shall obtain another bond or deposit the equivalent amount of the bond required in cash or securities with the State Treasurer pursuant to Miss. Code Ann. Section 27-71-21 prior to the cancellation date of the original bond.

103 Failure to submit a valid bond when required to do so by the Department by the cancellation date will result in automatic suspension of sales until a valid bond is received. In addition, the Department may take punitive action against the permittee for failure to timely submit a bond.

104 (Reserved)

Chapter 02 Permit Limit

100 No person, either individually or as a member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall own or control any interest whatsoever in more than one package retailer's permit. No person shall act as a guarantor for, loan money to, or receive any compensation or payment from more than one package retailer's permit. Furthermore, no spouse or relative of, nor any other person living in the same household as a person owning an interest in a package retailer's permit shall own an interest whatsoever in any other package retailer's permit.

101 No person, either individually or as member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall be permitted to own an interest in

more than one package retailer's permit while owning any interest in an on-premises retailer's permit. This prohibition shall also apply to the spouse or relatives of, or any other persons living in the same household as the person who owns interest in an on-premise retailer's permit. This chapter allows multiple ownership of on-premises retailer permits and allows any person holding an on-premises retailer permit to simultaneously own an interest in a single package retailer's permit.

102 However, this chapter does not authorize a person to purchase or otherwise transfer alcoholic beverages from one permitted place of business to another. Any violation of the provisions of Miss. Code Ann. Sections 67-1-41, 67-1-43 and 27-75-5 will be grounds for revocation of the permit or permits issued.

103 This chapter shall not be construed to deny renewal of any permit which may have been issued prior to the effective date of this regulation, nor shall this regulation be construed to prohibit rendering professional services for more than one package retailer.

104 (Reserved)

Chapter 03 Filing Fee

100 The \$25.00 filing fee is to reimburse the Division for the costs associated with investigating the qualifications of an applicant for a permit, and is forfeited whether the Department grants the permit applied for or not.

101 (Reserved)

Chapter 04 Permittee Must Maintain Qualifications and Pay Taxes

100 The failure of a permittee to maintain the qualifications necessary for the issuance of a permit pursuant to Miss. Code Ann. Section 67-1-57, including the failure to pay any taxes due the State, may result in the revocation or suspension of a retailer's alcoholic beverage permit.

101 (Reserved)

Chapter 05 Permit Transfer

100 No permit or any beneficial interest in a permit shall be transferred by any permittee to any other person or any other place except with the written consent of the Department.

101 Notice of the intended transfer of location or beneficial interest must be published for two consecutive issues in a newspaper having general circulation in the city or town in which the transfer applicant's place of business is located. In instances where the business is not located within a city or town, publication should occur in a newspaper of general circulation in the county where the business is located. Proof of publication must be filed with the application to transfer location or interest.

- 102 This chapter shall not be construed to require publication of a mere change in trade name or the officers of a corporation where there is no change in the ownership. However, any such contemplated changes must be submitted to the Department for prior approval.
- 103 An applicant for transfer of ownership of a permit for which there exists an exemption from distance requirements as provided for in Miss. Code Ann. Section 67-1-51 (3) must submit an updated waiver from the funeral home or church.
- 104 All original applicants for permits and/or proposed recipients of beneficial interest in such permits must be not less than 21 years of age and may not have been convicted of a felony in any state or federal court. An individual who is an applicant for a package retailer's permit must be a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a corporation or LLC, the designated manager must be a resident of the state.
- 105 (Reserved)

Chapter 06 Death or Disability of a Permittee

- 100 In case of death or physical or mental disability of any permittee, the estate or guardianship of the permittee shall be allowed to operate the permitted business for a period not exceeding sixty (60) days after the death or disability. During the 60-day period, any member of the permittee's immediate family may make application to the Department for the unexpired portion of the permit of the decedent to be assigned to him.
- 101 If such application is approved, the applicant shall be granted the right, without the payment of an additional permit fee, to operate the permitted place of business for the unexpired portion of the time of the original permit.
- 102 It shall also be permissible for the Executor of the Estate or guardian of the disabled permittee to sell the permittee's alcoholic beverage inventory to another permitted place of business, with the written approval of the Division, following the procedure outlined in Title 35, Part II, Subpart 4, Chapter 1 of the Mississippi Administrative Code.
- 103 If the application is denied, the inventory of alcoholic beverages, with prior approval from the Division, may be sold to another permitted retailer. In the event that the inventory cannot be sold to another retailer, the Division may take possession of the remaining unopened inventory and refund the estate at the current wholesale price, less a charge for handling and transportation. The items returned will then be placed in the Division's inventory.
- 104 However, no credit will be given for special orders, novelty items contained in dual packaged products, ceramic decanters, holiday packages or stale, damaged or delisted items. Such merchandise shall not be redeemed under any circumstances.

Chapter 07 Temporary and Qualified Resort Areas

100 Temporary Resort Area:

1. The Department is authorized to approve a certain area or locality outside the limits of an incorporated municipality as a temporary resort area if the particular location is in the process of being developed as a qualified resort area. Approval of this type of resort designation is contingent upon the applicant submitting the following:
 - a. A resolution from the Board of Supervisors of the county where such proposed area is located. The resolution must specifically state that the Board is of the opinion that the area in question is in the process of being developed as a resort area. In addition, the resolution must set forth the basis for the Board's conclusion.
 - b. A map clearly marked to indicate the specific area under consideration.
 - c. A list of steps taken or to be taken in developing the area as a qualified resort area.
 - d. Endorsements by civic clubs located in the area under consideration.
 - e. Assurance from the Sheriff of the area that he will enforce the Local Option laws of the State of Mississippi, and the rules and regulations of the Division.
 - f. Proof of publication of legal notice and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a temporary resort area is being filed, the contents of the application, a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
2. The temporary resort area designation is for a term of one year. Prior to the expiration of the year period, the applicant must establish and prove that the proposed area meets all of the statutory qualifications for a qualified resort area.

101 Qualified Resort Area:

1. A qualified resort area must be clearly established, understood and agreed upon by the resort area community. A community may be considered for a qualified resort area classification by the Department by submitting an application.
2. The application must be submitted by the President of the Board of Supervisors or the Mayor or Mayors of the municipality or municipalities affected. In the event the President of the Board of Supervisors or the Mayor refuses to submit such application, the same may be submitted by not less than 100 adult citizens of the community to be affected, and shall in each instance include the following items:
 - a. A map clearly marked to indicate the specific area under consideration.
 - b. Reasons why the particular area should be classified as a qualified resort area.
 - c. Endorsements by civic clubs located in the area under consideration.
 - d. Assurance from the Sheriff or Sheriffs of the area that he will enforce the Local Option laws of the State of Mississippi, and the rules and regulations of the

Division. If the area is located within a municipality, such assurance shall also be given by the Chief of Police of such municipality or municipalities.

- e. A certified copy of the order or orders as entered on the minute books of the governing body.
 - f. Proof of publication of legal notices and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a qualified resort area is being filed, the contents of the application, a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
3. Adjacent or affected areas may either join in or file objections to the application with the Department.

102 (Reserved)

Chapter 08 Common Carriers Reporting

100 Common carriers, in lieu of purchasing alcoholic beverages for resale from the Division, must file a Common Carrier Reporting Form. The common carrier reporting forms and the total amount due must be filed by the 20th of the month for the preceding month. The report will be audited as required by the Division.

101 A common carrier must maintain detailed records that reflect where alcoholic beverages were purchased, the purchase price, the date of the purchase and the taxes paid if the alcoholic beverages were purchased from a source (i.e. wholesaler or ship chandler) other than the Department. The records and inventory of alcoholic beverages shall be open to inspection by Division or any of its duly authorized agents at any time.

102 If common carriers purchase the alcoholic beverages they sell while traveling through the State of Mississippi from the Division, the Common Carrier Reporting Form does not have to be filed.

103 Alcoholic beverages can only be served and/or consumed while inside the permitted common carrier. Common carriers are prohibited from serving alcoholic beverages or allowing the consumption of alcoholic beverages while stopped in a dry county.

104 In the event that a common carrier has multiple permits for a business establishment, the common carrier may store alcoholic beverages in a common storage facility as described and regulated in Title 35, Part II, Subpart 2, Chapter 3 of the Mississippi Administrative Code, if and only if the alcoholic beverages were purchased directly from the Department.

105 (Reserved)

Chapter 09 Qualifications of Employees and Managers

- 100 The permittee shall be responsible, at all times, for acts of manager(s) and/or employee(s) which are in violation of the Local Option laws or rules and regulations, and which take place at the permitted establishment regardless of whether the permittee is present.
- 101 Any permittee shall not knowingly employ any individual who has been convicted of a felony within the past three years immediately preceding employment or who has been convicted and incarcerated for any crime within a period of one year immediately preceding employment. Furthermore, a permittee shall not employ any person under the age of eighteen (18) to wait on tables, take orders for, or deliver orders of alcoholic beverages and may not employ any person under the age of twenty-one (21) to tend bar or act in the capacity of bartender.
- 102 Permittees are required to make an inquiry into whether an employee meets the above criteria and maintain records of this information.
- 103 Prior to a proposed manager assuming managerial responsibility, the permittee must obtain approval from the Division. To obtain approval of the proposed manager, the permittee must file the following forms:
1. Application for change in manager's or assistant manager's name on alcoholic beverage license;
 2. Personal Record Form;
 3. Two fingerprint cards;
 4. The applicable processing fee, in certified funds, for submission of fingerprints to the FBI.
- 104 In addition, each proposed manager must possess all qualifications required of a permittee. Manager identification cards may be suspended or revoked for valid cause.
- 105 The Department may impose fines, or may suspend or revoke the permit(s) of any permittee in violation of this chapter.
- 106 (Reserved)

Chapter 10 Management Agreement

- 100 The permittee in all cases must operate the business for himself and have direct control over its entire operation.
- 101 No management agreement for a permitted place of business shall be effective until the Department has approved the same.
- 102 The management agreement must provide that the permittee will be absolutely responsible for any and all violations of the Local Option laws or rules and regulations occurring on or about the licensed premises.

103 Where the law authorizes an on-premises retailer's permit to be issued to a restaurant or hotel, the operation of the lounge located on its premises shall be in conjunction with the operation of the restaurant. Therefore, the operation of the restaurant and lounge shall be considered one and the same and must be under the direction of one manager.

104 (Reserved)

Chapter 11 Application Requirement

100 The following information will be required by the Division prior to, and at any time after, the issuance of a retailer permit:

1. A properly completed application for Retailer's Permit
2. Proof of Publication Affidavit on Legal Notice pursuant to Miss. Code Ann. Section 67-2-53(2) to include two (2) tear sheets from the newspaper in which said the Notice was published.
3. Proof of compliance with the Federal statutes and regulations applicable to the permit being applied for which will include a copy of the receipt for purchase of a Federal Use Stamp or a copy of the check in payment thereof.
4. A copy of the Applicant's deed or executed lease agreement on the premises where the business is to operate. If the permittee receives notice that the lease is to be cancelled, or if the permittee transfers the deed during the permit year, the permittee must immediately notify the Division in writing. The permittee shall obtain an executed renewal lease prior to the expiration date of the existing lease if the lease is to expire during the permit year. If the permittee previously submitted a deed or multi-year lease on the permitted premises, prior to any permit renewal, the permittee must submit an affidavit attesting that there will be no changes in said deed or lease. Failure to submit a valid renewal lease, deed or affidavit will result in the automatic suspension of sales until a valid lease is received by the Division. Further, the Department may revoke the permit for failure to timely submit an executed renewal lease, deed or affidavit. A valid copy of any deed or lease may be required at any time after issuance of the original permit.
5. A copy of the floor plan of the building where the prospective permittee proposes to operate the business under the permit.
6. A complete, current and accurate summary financial statement(s) as follows:
 - a. Sole Owner Business – on the owner.
 - b. Partnership – on the partnership and each partner thereof.
 - c. Corporation for profit (Non Profit excepted) – on the corporation and;
 - i. On-Premises Retailer – each officer who owns ten percent (10%) or more of the stock of such corporation and all major stockholders.
 - ii. All other permit classes –each officer and all major stockholders.
 - d. Limited Liability Company – on the LLC and each member thereof.
 - e. In addition to the foregoing, if any applicant for a permit is doing business with out-of-state bank(s), letter(s) from said bank(s) verifying the current status of any and all loans, checking and savings accounts, certificates of deposit and a general recommendation from said bank(s) must be included therein.
7. A statement of ownership.

8. Personal records and fingerprint forms
9. Sales tax registration including the Mississippi Sales Tax Number
10. Food Service Permit
11. A copy of a waiver of the distance requirements from a church or funeral home if applicable. Where the transfer of a permit results in a change in use (i.e. from an On-Premises Retailers Permit to a Package Retailer's Permit or vice versa) a new waiver will be required. Bed and breakfast inns listed on the National Register of Historic Places are exempt from all distance requirements.

101 The Alcoholic Beverage Control Division may, in its discretion, require any applicant for a retailer permit to submit any and all other information and/or reports which it may deem necessary and expedient in the consideration of an existing permit or in the processing of any original permit.

102 (Reserved)

Chapter 12 Hotels

100 A hotel, as that term is defined by Miss. Code Ann. Section 67-1-5(l), possessing fifty (50) or more sleeping rooms and lying within a municipality having a population exceeding twenty-five thousand (25,000) shall not be required to have a dining room, or otherwise serve food, as a requirement to qualify for an on-premise alcoholic beverage permit.

101 (Reserved)

Chapter 13 Temporary Alcoholic Beverage Permits

100 Temporary retailer's permits may be issued by the Department. These permits allow the purchase and resale of alcoholic beverages and native wines during legal hours and only on the premises described in the permit.

101 An alcoholic beverage permit may not be issued or transferred while there is pending in the Courts, or before the Department, any charge of violating the Local Option laws or rules and regulations, or the laws against gambling in the State, pursuant to Miss. Code Ann. Section 67-1-67

102 All permit fees, filing fees, and additional privilege fees are to be paid by the temporary permittee, in advance, with certified funds.

103 (Reserved)

200 A Class 1, one-day temporary permit, authorizing the sale of alcoholic beverages by the drink, may be issued to a bona fide nonprofit civic or charitable organization. The permit shall allow the sale and consumption only at the authorized location during the times permitted for other on-premises retailer locations in the city or county where the permit is

issued pursuant to Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code.

- 201 Application forms provided by the ABC for Class 1 Temporary Alcoholic Beverage Permits shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with the requirements of Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.
- 202 All alcoholic beverages purchased for resale by a temporary permittee shall be purchased from a package retailer in the county in which the permit is located. The applicant shall set forth on his application the package retailer(s) from which said purchase(s) will be made, including the quantity to be purchased. All applicable sales and use taxes must be paid by the Class 1 Temporary Alcoholic Beverage Permit holder. Any bottled alcoholic beverages remaining in the possession of the Class 1 Temporary Alcoholic Beverage Permit holder may, with approval of the package retailer, be returned to the package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.
- 203 Any package retailer or Class 1 Temporary Alcoholic Beverage Permit holder violating the terms of this chapter may, at the discretion of the Department, have his permit suspended or revoked, or may be denied a future permit by the Department.
- 204 A Class 2 Temporary Alcoholic Beverage Permit may be issued only in conjunction with a transfer application submitted by a prospective permittee seeking an on-premises retailer or package retailer permit currently in effect at the particular location for which the transfer is sought.
- 205 (Reserved)
- 300 Application forms for Class 2 Temporary Alcoholic Beverage Permits provided shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2) and (3), 67-1-57, and 67-1-59. The applicant shall have fourteen (14) days from the issuance of the temporary permit to submit all documents and other materials required by Title 35 Part II, Subpart 3, Chapter 11 of the Mississippi Administrative Code. Upon the failure of the applicant to submit these matters within required time, the temporary permit will lapse and liquor sales will be prohibited. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a permit, or an appeal of such denial, shall be

conducted in accordance with Title 35, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.

- 301 Upon approval of a Class 2 Temporary Alcoholic Beverage Permit, the temporary permittee must purchase his alcoholic beverages directly from the Department and/or, with the Department's prior approval, purchase the remaining inventory of the previous permittee. Alcoholic beverage purchases from the Division are to be paid by the temporary permittee, in advance, with certified funds. Any Class 2 temporary permittee shall pay additional privilege fees as set forth in Miss. Code Ann. Section 27-71-5(m). Any accumulated balances of purchases and additional privilege fees of the original on-premises retailer permittee shall be transferred to the new permanent transferee.
- 302 A Class 2 Temporary Alcoholic Beverage Permit issued to temporary permittee shall run for a period of seventy (70) days unless applicant fails to meet the fourteen (14) day requirement for complying with Title 35, Part II, Subpart 3, Chapter 11 of the Mississippi Administrative Code. An application for a Class 2 Temporary Alcoholic Beverage Permit shall be filed at least seventy (70) days prior to the expiration of the original permit sought to be transferred. In the event less than seventy (70) days remains on the original permit, then a renewal application, signed by the original owner, must accompany the Class 2 Temporary Alcoholic Beverage Permit application.
- 303 Upon issuance of a Class 2 Temporary Alcoholic Beverage Permit, an Administrative Hold shall be placed on the original permit. The time remaining on the original permit shall continue to run, but no alcoholic beverages may be purchased from the Division on the original permit. Furthermore, alcoholic beverages can only be sold and consumed pursuant to the Class 2 Temporary Alcoholic Beverage Permit and not by authority of the original permit as long as the Administrative Hold is in force. An Administrative Hold may be removed following the Department's approval of a transfer or following proof that the original owner has retained the particular location and the Class 2 temporary permittee no longer desires the permit.
- 304 The hours for sale and consumption of alcoholic beverages for Class 2 Temporary Alcoholic Beverage permittees shall be the hours authorized for similar permittees located in the city or county where the permit to be transferred is located pursuant to Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code, or as set by state law.
- 305 (Reserved)
- 400 A Class 3 temporary one-day permit may be issued to qualified retail establishments and authorizes the complimentary service of wine only, including native wine, to patrons attending an open house or promotional event, for consumption only on the premises described on the temporary permit. This permit shall only allow consumption during the times permitted for other on-premise retailer locations in the city or county where the permit is issued pursuant to Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code. No retailer may receive more that twelve (12) Class 3 temporary

permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that holds either a merchant permit issued under Miss. Code Ann. Section 67-1-51(l), or holds a permit issued under Miss. Code Ann. Chapter 3, Title 67 authorizing the sale of beer or light wine.

- 401 Application forms provided by the ABC for a Class 3 temporary permits shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with the requirements of Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.
- 402 All alcoholic beverages purchased for resale by a Class 3 temporary permit holder shall be purchased from a package retailer in the county in which the permit is located. The applicant shall set forth on his application the package retailer(s) from which said purchase(s) will be made, including the quantity to be purchased. All applicable sales and use taxes must be paid by the Class 3 temporary permit holder. Any bottled alcoholic beverages remaining in the possession of the Class 3 temporary permit holder may, with approval of the package retailer, be returned to the package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.
- 403 (Reserved)

Chapter 14 Caterer's Permits

- 100 A caterer's permit authorizing the purchase and resale of alcoholic beverages by caterers of food may be issued by the Department upon application, if the applicant meets the qualifications as provided for by Miss. Code Ann. Sections 67-1-53, 67-1-55 and 67-1-57.
- 101 Caterers are subject to all rules and regulations which apply to on-premise retailers.
- 102 Caterers shall provide notice of the location of the catered event 10 days prior to the event. A copy of the permit shall be prominently displayed on the premises of the catered event.
- 103 Alcoholic Beverage Control Division agents shall be permitted to enter the catered premises for the purpose of inspecting the premises and carrying out any enforcement responsibilities necessary. Should the permittee, its agents, servants or employees interfere, impede or hinder the agents from carrying out their duties under the provisions of the law and regulations pertaining to the sale of alcoholic beverages, it shall be the

duty of the Department to impose a penalty amounting to either suspension or revocation of the caterer's permit.

- 104 Records are to be maintained by the caterer which clearly reflects the receipt of alcoholic beverages from the Department, as well as the sale of alcoholic beverages and all food sales. All records shall be kept and maintained separately from the records pertaining to any on-premises permitted place of business operated by the caterer. All books, papers, records or other data which pertain to purchases, costs and expenditures incurred by the permittee incident to the operation of the catering business shall be open to inspection by any duly authorized employee of the Department. Caterers must comply with all record keeping procedures as outlined in Title 35, Part II, Subpart 2, Chapter 6 of the Mississippi Administrative Code.
- 105 The Department may revoke or suspend the caterer's permit issued for any violation of the rules, regulations and statutes, as they pertain to alcoholic beverages, by the permittee or any agent, employee, associate, or representative of the permittee, or for violations committed by any guests or individuals present at the catered event.
- 106 (Reserved)

Chapter 15 Alcohol Processing Permit

- 100 An alcohol processing permit may be issued with the approval of the Department to any person, firm, or corporation upon written application and applicable filing fees to the Division. If the applicant is a corporation, an officer of the corporation must affix their signature upon the application. If the applicant is a partnership, each partner must affix their signature upon the application. The processing permit is a non-retail permit and shall be issued and maintained only on the use of alcoholic beverages for legitimate cooking, processing, or manufacturing purposes and that the applicant meets the qualifications, as provided for by Miss. Code Ann. Sections 67-1-53, 67-1-55 and 67-1-57. Sales tax is not due on purchases of alcoholic beverages by those holding an alcohol processing permit. The permit holder will be required to obtain a sales and use tax direct pay permit in order to purchase such beverages exempt.
- 101 The permittee must indicate the estimated annual amounts of usage of alcoholic beverages. These amounts may be increased upon sworn affidavit of the permittee with the Division. It shall be a violation of these regulations for the permittee to use or possess more alcoholic beverages than set forth in the permit.
- 102 There shall be no minimum purchase amount required when acquiring alcoholic beverages; however, if the permittee wishes to purchase product from the Division minimum purchasing limits must be followed. All products used by the permittee must be purchased within the State of Mississippi and the permittee will be required to maintain on site storage of all alcoholic beverages. In addition, it shall be mandatory that inventory records be kept and preserved by the permittee for a period of three (3) years and shall include the itemized purchase invoices and tickets bearing the date of purchase

and name of the seller of all alcoholic beverages. The Division reserves the right at any time to inspect all such inventory records as well as the permitted premises.

- 103 The Department may revoke or suspend the processors permit for violation of any of the Local Option laws or rules and regulations by the permittee or any agent, employee, associate, or representative of the permittee.

104 (Reserved)

Subpart 4 Warehouse Operations

Chapter 1 Disposition of Inventory When Permit is Revoked, or Not Reissued, or When Counties Vote to Go Back Under Prohibition Laws

- 100 Inventory held by a permit holder must be disposed of when:
1. The permit expires and the permittee has made no application for renewal;
 2. The Department has refused to reissue the permit;
 3. The permit has been revoked by the Department;
 4. There has been a death or physical or mental disability of the permit holder
 5. The permit holder desires to discontinue the business prior to the expiration of the permit; or
 6. The county or judicial district where the permit holder is located has voted to go back under the prohibition laws.
- 101 The permittee shall be given a period of sixty (60) days after the expiration or revocation of the permit within which to make a sale of the alcoholic beverages on hand to another permittee, and if a purchaser is found , the permittee shall comply strictly with the following procedures before making any sale of his stock of goods:
1. A written request shall be submitted to the Director along with a complete and detailed inventory of all merchandise on hand.
 2. The request shall be signed by the holder of the permit who desires to sell the merchandise and by the permit holder who desires to purchase the merchandise. No sale shall be made except to a retail establishment which has been duly licensed by the Alcoholic Beverage Control.
 3. Sales or commitments to sell or purchase alcoholic beverages under the provisions of this regulation shall be made subject to the written approval of the Alcoholic Beverage Control Division.
 4. If the prospective purchaser is an on-premise retailer permittee and the Director approves the purchase pursuant to Miss. Code Ann. Section 27-71-5, the current wholesale value of the alcoholic beverages purchased shall be recorded just as any regular purchase of alcoholic beverages from the LDC Warehouse on the permittee's purchase records.
- 102 The Division may at its discretion take possession of any and all alcoholic beverages remaining in stock of the permittee and a refund shall be made to the permittee at the current wholesale price. A charge for handling and transporting the product to the LDC

Warehouse will be deducted from the refund. All permit fees paid by the permittee shall be forfeited. Such alcoholic beverages shall be placed in the Alcoholic Beverage Control Division inventory and sold in the regular course of business.

- 103 Permit holders desiring to discontinue business prior to expiration of the alcoholic beverage permits shall surrender their permits for cancellation.
- 104 Permit holders who desire to return their stock to the LDC warehouse may do so at the discretion of the Director pursuant to the procedures outlined in paragraph 101 above. Requests to return alcoholic beverages to another permittee must also be approved by the Director.
- 105 No credit of merchandise returned to the LDC Warehouse shall be given under this Chapter for purchases of delisted items, novelty items contained in dual packaged products, holiday packages, special orders or items not saleable. Such special merchandise shall not be redeemed by the Division under any circumstances. All redeemed inventory will be placed in the ABC inventory.

106 (Reserved)

Chapter 02 Uniform Prices

- 100 Alcoholic beverages will be sold by the Alcoholic Beverage Control Division at uniform prices throughout the state. Prices of alcoholic beverages as published are f.o.b. retailer and contain all taxes with the exception of the Mississippi sales tax. Mississippi sales tax will be computed on the total invoice price and added to each purchase.

101 (Reserved)

Chapter 03 Cash Payment

- 100 All payments for orders or alcoholic beverages must be made by cash, bank check, cashier's check, ACH Debit, post office money order or express money order. Permittees must send payment with their written orders on forms supplied by the Division or be authorized for ACH Debit status.
- 101 The Division will draft the permittee's bank account for the amount of each invoice if the proper authorization is received by the Division from the permittee and the permittee's bank.
- 102 If payment is dishonored or insufficient after a permittee has received an order on which payment was made, the Department will temporarily discontinue sales of alcoholic beverages until such time as payment is received.
- 103 If payment is dishonored for insufficient funds after a permittee has received an order on which payment was made, the permittee will be required to pay with certified funds for a

period of three (3) months. If a second dishonored check or ACH Debit is received the permittee will be required to pay with certified funds for one (1) year. Further dishonored checks of ACH Debits will require the permittee to pay with certified funds for an amount of time determined at the discretion of the Division. The Division retains the authority and discretion to require permittees to enter into bonds found in Miss. Code Ann. Section 27-71-21.

104 (Reserved)

Chapter 04 Split Cases

100 A number of selected items will be subject to split case sales. These items will be noted on the price lists published by the Alcoholic Beverage Control Division. Less than full cases of alcoholic beverages can be sold by the Alcoholic Beverage Control Division to permittees. The current price list will contain instructions for ordering split cases.

101 (Reserved)

Chapter 05 Special Order Procedures

100 All products must have an approval from the Department before a company or an agent may make any sales or take any orders for such products. All requests must be submitted in writing to the Director and substantiated by facts and figures regarding prices, specifications, alcohol content and other relevant information requested. A sample or picture of the actual beverage container and label must also be provided for review.

101 Special orders for any and all types of alcoholic beverages not currently listed on ABC's price list and not prohibited by Title 35, Part II, Subpart 2, Chapter 5 of the Mississippi Administrative Code may be placed by package retailer or on-premises permittees in case lots only.

102 Special orders received by the Alcoholic Beverage Control Division will be processed as promptly as feasible.

103 The Division will obtain the prices from the supplier and use the regular pricing formula in arriving at wholesale prices to be submitted to the permit holder. Upon receipt of the quotation, the permit holder may place an order with the Division and shall remit funds to cover the entire cost.

104 In addition, the provisions of Title 35, Part II, Subpart 4, Chapter 1 of the Mississippi Administrative Code dealing with the return of merchandise by permittees shall not apply to special order merchandise. Any special order merchandise shall be redeemed only as dry concealed damage as set forth in the Alcoholic Beverage Control Price List Book.

105 All special orders must be labeled properly and in accordance with industry standards. If the LDC Warehouse labels the product, a fee will be charged.

106 (Reserved)

Chapter 06 Importers', Vintners', and Distillers' Warehouses

- 100 Importers, vintners and distillers may warehouse and store alcoholic beverages in private bonded warehouses in Mississippi for the ultimate use and benefit of the Department of Revenue by obtaining prior approval from the Department. Bonded warehouses may be owned or operated by any entity which posts the required bond as provided in Paragraph 102 below.
- 101 All alcoholic beverages shipped into this state for storage in a private bonded warehouse must have the proper Mississippi ABC item code label affixed to each case. No withdrawal from inventory shall be permitted from a private bonded warehouse for shipment outside of the State of Mississippi unless special permission is obtained from the Director.
- 102 Before any entity shall engage in warehousing and storage, a ten thousand dollar (\$10,000.00) bond must be tendered to and approved by the Division, thereby insuring that the entity will strictly comply with all laws, rules and regulations of the State, and shall pay all taxes due the State of Mississippi.
- 103 Shipments from a private bonded warehouse to the LDC Warehouse must be by common carrier unless prior written approval of an alternate shipper is obtained in writing from the Director. All shipments to the LDC Warehouse must be accompanied by a standard bill of lading with the following additional information: the number of cases shipped, a description of the product(s) shipped, and the Mississippi ABC item code for the product(s) shipped. Cases shipped from a private bonded warehouse to the LDC Warehouse will be inspected and refused if the shipment contains unlabeled/uncoded cases, damaged cases, or mis-shipped cases.
- 104 Shipments from a private bonded warehouse to the LDC Warehouse will be limited to one day per week, to be designated by the Division.
- 105 No alcoholic beverage samples shall be shipped into, stored, or shipped out of a private bonded warehouse.
- 106 Each private bonded warehouse shall store its inventory of alcoholic beverages in an area so designated by the warehouse for alcoholic beverages, and shall maintain the inventory in a saleable condition at all times. The alcoholic beverages shall not be interspersed with other goods stored in the private bonded warehouse.
- 107 The private bonded warehouse's alcoholic beverage records and alcoholic beverage inventory shall be open for examination at any time. Failure to keep up-to-date, accurate inventory and shipment records or to allow examination of the records or the inventory

shall subject the warehouse to the immediate suspension of its rights to ship to the LDC Warehouse.

- 108 All theft of alcoholic beverages must be immediately reported to the local authorities and to the Division.
- 109 An inventory, certified by the bonded warehouseman with whom such alcoholic beverages are stored, shall be furnished to the Department within five (5) days after the close of business at the end of each calendar month.
- 110 (Reserved)

Chapter 07 Procedure for Listing Alcoholic Beverage Items

- 100 New listings will be considered at any time by the Department. In order for a product to be considered for listing, it must have met or exceeded the nine (9) month sales revenue formula outlined below and the manufacturer must be in compliance with the inventory management guidelines as set forth by the Division.
- 101 In addition, the Department retains full discretion to list or not list any product. Each company or agent shall submit to the Division the new items it wishes to list.
- 102 Products must be quoted in case units as provided by the manufacturer. Strapping or taping cases together or subdividing cases into units other than the manufacturer's original case unit is prohibited. Once approved, products shall be shipped to the LDC Warehouse in original case units as provided by the manufacturer.
- 103 For spirits, the total revenue from sales must be greater than \$4,500 with sales of 25 or more cases during the nine (9) month period beginning May 1st and ending January 31st. The Division shall review the minimum dollar limit and case limit on an annual basis and make changes as circumstances dictate.
- 104 For wines, the total revenue from sales must be greater than \$4,500 with sales of 25 or more cases during the nine (9) month period beginning May 1st and ending January 31st. The Division shall review the minimum dollar limit and case limit on an annual basis and make changes as circumstances dictate.
- 105 Unique products or classes of products may, at the discretion of the Division, be separated from the wine or spirit categories and given its own minimum revenue and case sales requirements as circumstances dictate.
- 106 The total revenue from sales shall equal the case cost, at wholesale, multiplied by the number of cases sold during the nine (9) month period. This formula is based on cases actually sold to permittees and not based on cases ordered. Cases which are ordered by permittees but not sold due to the fact that the product ordered is out of stock or for any other reason will not be considered in the application of the formula.

- 107 Furthermore, any special order item that meets or exceeds the nine (9) month sales revenue formula may, at the Department's discretion, be placed in the Division's Price List.
- 108 One-of-a-kind and holiday items are exempt from the quota requirements. No holiday item shall contain cash, coupons, rebates, or any items subject to spoilage.
- 109 Price changes will be considered four (4) times each year and will become effective on the following dates: February 1, May 1, August 1, and November 1. Such changes to be considered for February 1, must be filed with the Division by December 1; for May 1, by March 1; for August 1, by June 1; for November 1, by September 1.
- 110 Each bottle of native wine shall have clearly imprinted on the label the words Mississippi Native Wine.
- 111 (Reserved)

Chapter 08 Procedure for Delisting or Deleting Alcoholic Beverages

- 100 Any items on the Division's price list will be delisted for failure to meet the sales revenue formula as set out in Title 35, Part II, Subpart 4, Chapter 7 of the Mississippi Administrative Code; however, the Department may, in its discretion, continue to maintain an item in its price list that does not meet the minimum revenue standard. Furthermore, the Department reserves the right to delist any item for violation of any law or regulation or when, in its opinion, the best interest of the Division may be served.
- 101 The storage of items at the LDC Warehouse is strictly a voluntary act by its owner(s). The Department retains the right to regulate the location of all items placed in bailment. Manufacturers shall manage the inventory of items stored in the LDC Warehouse in compliance with the parameters as set forth by the Division. Manufacturers who do not comply with the guidelines as set forth, may, at the discretion of the Division, be stopped from listing new products and special purchase allowances. Failure of a company to stock a bailment item after the effective date of the price list may result in the delisting of the item.
- 102 Any bailment item voluntarily removed by the company, or delisted by the Department, shall be removed from the State at the direction of the Department. Delisted items must be removed from bailment within thirty (30) days from the date of delisting. Any item delisted will not be eligible for re-listing for a minimum of one (1) listing period. Delisted items may, subject to Department approval, be offered as a special order item pursuant to Title 35, Part II, Subpart 4, Chapter 5 of the Mississippi Administrative Code.
- 103 All products remaining after the thirty (30) day period shall become the property of the Division for disposition as it sees fit.

104 (Reserved)

Chapter 09 Dual Packaging

100 The holder of a manufacturer's or solicitor's permit may submit to the Division certain unit packages consisting of a specialty or novelty item and an alcoholic beverage previously listed with the Division for sale in retailer package stores. Novelty items include, but are not limited to: T-shirts, sportswear, glassware, stoneware, flags, and banners. However, goods subject to spoilage will not be permitted. All products containing dual packaged items must have prior approval of the Division.

101 The unit packages shall be assembled prior to shipment to the LDC warehouse and shall be contained in sealed packages. Novelties may not be sold separately but must be sold as a unit in one original, unopened package. Dual package items will not be sold in split cases. The Division will not be responsible for damaged or defective dual packaged products other than alcoholic beverages.

102 (Reserved)

Chapter 10 Bailment Procedures - Policies and Procedures of Mississippi Alcoholic Beverage Control Bailment Warehouse System

100 Mississippi uses the bailment system for operations of the LDC Warehouse. When bailment is used, there will be a bailment agreement between the Division and the vendor. Under the bailment system, ABC inventory is used first; when the ABC inventory is insufficient, the vendor's inventory will be utilized.

101 All bailment alcoholic beverages received by the Division will be stored at the Liquor Distribution Center Warehouse. The Division will determine the location of all alcoholic beverages stored in the LDC Warehouse. The Division reserves the right to manage warehouse space allocation.

102 (Reserved)

200 Vendors will own and control the stock that enters the LDC Warehouse. The Division will take physical inventory on a continuous cycle counting basis. Any irreconcilable discrepancies will be resolved as follows:

1. The Division will pay the vendor for the product in cases of physical shortage of the vendor's product.
2. The Division will place any surplus into its own inventory in cases of physical overage of the vendor's product.

201 Vendors may conduct their own physical inventory of stock held in bailment by arrangement with the Division at least 48 hours in advance. Vendors or their agents should bring discrepancies to the attention of the Division.

- 202 The Division will routinely authorize the product into the distribution center for restocking purposes.
- 203 The Division will require that vendors designate an agent who will be responsible for approving stock withdrawal. A Mississippi Bailment Warehouse Vendor's Authorization Representative Form should be completed for each authorized agent. Vendors must update this document as needed.
- 204 The Division will notify the vendor's agent during the last week of each month of their intention to purchase specified inventory belonging to the vendor based on anticipated needs for the following month. If the vendor does not respond within two (2) hours after receipt of the notification, the vendor will be deemed to have authorized the anticipated purchase. This report shows the maximum anticipated purchases. Actual purchases may differ due to the availability of the vendor's product on the date the inventory was picked, the availability of new receipts into the LDC Warehouse, and the availability of ABC owned inventory which will be removed first.
- 205 Vendors shall comply with the inventory management guidelines as set for by the Division. Vendors who do not comply, may, at the discretion of the Division, be stopped from listing new products and/or offering special purchase allowances.
- 206 The receipt of bailment merchandise is according to the following terms and conditions.
1. Receiving into the bailment-warehousing systems will take place at the LDC Warehouse.
 2. Product will not be unloaded if it is not shipped on pallets or slip-sheets. Pallets are the preferred method for delivery; therefore, there will be a charge for the use of slip-sheets
 3. Vendors are required to supply LDC Warehouse personnel with a Bill of Lading or Packing List at delivery which must include the control state code, the description and name of the product, and the quantity of the product being delivered to the LDC Warehouse.
 4. The vendor will be responsible for obtaining the freight carrier.
 5. The carrier is required to call the LDC Warehouse to obtain an unloading appointment time. The carrier must indicate the vendor when scheduling the appointment.
 6. The Division will complete a Receiving Report form for each load delivered. The case quantity shown on the form will reflect any overage or shortage compared to the Bill of Lading or Packing List supplied by the carrier.
 7. LDC Warehouse personnel will unload all products. Carrier drivers are required to witness the unloading. The driver and Division representative will sign the unloading report form and the Bill of Lading or Packing List.
 8. If the Division discovers an error in the receiving process, the Division will complete an Inventory Correction form which will be attached to the original receiving report.

- 207 Because the Division may purchase damaged goods and subsequently establish a receivable with the vendor, the LDC Warehouse Operations Manager will be responsible for determining whether damaged goods are to be received into the bailment inventory. The Division will always attempt to resolve any problems in this area to the mutual satisfaction of the vendor and the Division.
- 208 The Division believes that it is advantageous to the vendor and the Division to accept merchandise with small amounts of damage which has occurred during the shipping process. At the discretion of the LDC Warehouse Operations Manager, goods with slight damage will be received into the Division inventory and placed in the repack area. The Division will purchase the damaged bottle(s) and file a claim against the vendor for recovery of the damaged bottle's purchase price.
- 209 When the Division discovers substantial damage, the truck will be sealed and the vendor notified. The vendor or designated agent will be responsible for determining how the damaged goods are to be handled. The Division will assist the vendor in substantiating the degree of damage, but the vendor is responsible for filing a claim against the carrier. No goods from the damaged shipment will be received into the LDC Warehouse until the LDC Warehouse Operations Manager is satisfied with the vendor's determination.
- 210 All products are owned by the vendor. It will be the responsibility of the vendor to file claims with the carrier to recover the cost of damages which occurred during the transportation of the alcoholic beverages.
- 211 Vendor's agents may obtain a report from the NABCA showing the activity of their products.
- 212 (Reserved)
- 300 Vendors may withdraw product from bailment; however, for the purposes of warehouse administration, all removals must be approved 24 hours in advance of removal and will occur during normal LDC Warehouse receiving hours. The vendor must provide in writing the item code, name, description, and quantity of the product being removed, as well as the motor carrier picking up the product from the LDC Warehouse and the product destination. The division will load the product onto the truck. The carrier's driver will observe the loading. Both the Division representative and the driver must sign the Bill of Lading and a copy of the document will be provided to the vendor. The Division will adjust the bailment inventory records and will charge the vendor a handling fee to cover the cost of the requested withdrawal.
- 301 (Reserved)
- 400 The Division will charge for certain services. Charges may include, but will not be limited to, the following services:
1. Labeling
 2. Re-packing

3. Damage Re-packing
4. Reloading for shipping
5. Split case handling
6. Bailment fees
7. Unloading product received on slip-sheets

- 401 Vendors must comply with Federal laws, guidelines, and regulations.
- 402 Prior to using the LDC Warehouse, each vendor will be required to execute the bailment agreement and designate an agent.
- 403 The Division will not carry insurance on the vendor's inventory in bailment nor be responsible for any loss. Vendor's agents will be provided inventory reports to assist vendors in determining the value of their inventory. This report may be obtained from the NABCA.
- 404 Claims by vendor must be presented in writing to the Division within thirty (30) days after vendor's claim arises.
- 405 The Division may submit to the vendor and/or the vendor's agent, or may require the vendor or vendor's agent to submit to the Division, other documents necessary to conduct its operations.
- 406 (Reserved)

Subpart 05 Native Wine

Chapter 01 Applicant Requirements

- 100 Prior to obtaining a permit, native wine applicants must satisfy the department that they meet the requirements of Miss. Code Ann. Section 67-1-57.
- 101 No person holding any permit issued under the provisions of this chapter shall engage in any business or activity authorized by such permit unless such person shall qualify so to do by complying with all statutes of the United States of America, and all regulations issued pursuant thereto, which are applicable or shall pertain to such business or activity, and shall continue to be so qualified at all times while engaging in such business or activity. As a prerequisite to the issuance of any permit under this chapter, the applicant shall first obtain the required federal occupational stamp for the type of business for which the permit has been applied.
- 102 Failure of a permittee to maintain the qualifications necessary for the issuance of a permit, including failure to pay any taxes due the State, may result in the revocation or suspension of a permit.
- 103 (Reserved)

Chapter 02 Production

- 100 In order to be classified as a Mississippi native wine at least 51% of the finished product by volume shall have been obtained from grapes or other sources produced in Mississippi and defined in Miss. Code Ann. Section 67-5-5.
- 101 A holder of a Class 3 Native Wine Manufacturer's Permit shall be allowed to import bulk and/or fortified wines into this state for use in blending with native wines. In addition, permit holders shall make available to the Department or its representatives all records required by the Federal Government, showing the volume of bulk and/or fortified wines imported for blending or fortifying purposes. The Department shall satisfy itself that the volume of the wines imported does not exceed the volume the permit holder would reasonably be expected to produce from grapes planted in his vineyard, taking into consideration that fifty-one percent (51%) of the wine must be produced from grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.
- 102 Persons holding a Class 3 Native Wine Manufacturer's (Producer's) Permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be required to have the words Mississippi Native Wine clearly printed on the label of each bottle.
- 103 All native wines produced under permits issued pursuant to Miss. Code Ann. Section 67-1-51 shall be produced in accordance with the sanitary codes and production standards required by applicable federal statutes and regulations of the Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration of the United States Government.
- 104 (Reserved)

Chapter 03 Taxation

- 100 Permittee's shall pay the annual tax levied pursuant to Miss. Code Ann. Section 27-71-5 on all wine produced in a given year.
- 101 Permittee's shall pay the tax levied pursuant to Miss. Code Ann. Section 27-71-7 on all wine sold in a given year unless that wine is sold for export and sale without this state or if the wine is given away as free samples pursuant to Miss. Code Ann. Section 67-5-13. This tax shall be remitted monthly.
- 102 Permittee's must provide to the department each month statements showing:
1. All sales made to consumers at the native winery or in its vicinity;
 2. The gallonage produced during the month; and
 3. Gallonage sold or exported for sale during the month.
- 103 Permittee's who import bulk or fortified wines from without this state to be mixed with native wines shall not pay any excise tax on the imported wine.

104 (Reserved)

Chapter 04 Retail Operations

- 100 A permit shall not be denied based solely on the fact that the proposed winery is located in a county which is considered dry under Miss. Code Ann. Section 67-1-1 et. seq.
- 101 A native winery may make sales to consumers at the location of the winery or in its general vicinity. The location of said sales must be pre-approved by the Department.
- 102 Sales made to consumers shall be for either on-premise or off-premise consumption.
- 103 Native wine retailers may make sales of native wines during the same hours as that allowed for package retailers. Provided, however, the governing body of any location may petition the Department to permit sales by native wine retailers located within their jurisdiction at other times. Upon receipt of a petition, or upon its own motion, the Department shall consider the same and set whatever hours of sale it deems appropriate. A certified copy of the resolution of the governing authority requesting permission must accompany all such petitions.
- 104 Native wineries shall not make direct sales to Mississippi alcoholic beverage permittees.
- 105 Native wines may be possessed and consumed throughout the State.
- 106 (Reserved)

Title 35 Department of Revenue~~Mississippi State Tax Commission~~

Part II Alcohol Beverage Control

Subpart 1. *General and Administrative*

35.II.1.01	Chapter 01. Definitions	page 4
35.II.1.02	Chapter 02. Administrative Provisions	page 4
35.II.1.03	Chapter 03. Appeal Procedures	page 5

Subpart ~~1~~2. *Enforcement*

35.II. 1 2.01	Chapter 01. Violations	page 7
35.II. 1 2.02	Chapter 02. Advertising <u>and Promotions</u>	page 8
35.II. 1 2.03	Chapter 03. Permitted Premises Where Alcoholic Beverages Are Sold	page 9
35.II. 1 2.04	Chapter 04. Hours and Days During Which Alcoholic Beverages Be Sold by Hotels, Restaurants, Clubs, Package Stores and Caterers	page 11
35.II. 1 2.05	Chapter 05. Purchases and Sale of Distilled Alcoholic Beverages by On Premise Permittees	page 12
35.II. 1 2.06	Chapter 06. Retailers Records	page 14
35.II. 1 2.07	Chapter 07. Prohibited Conduct and Activities	page 15
35.II. 1 2.08	Chapter 08. Employment of Persons Under 21 Prohibited	page 17
35.II. 1 2.09	Chapter 09. Cooking Wines	page 17
35.II. 1 2.10	Chapter 10. Restriction on Interest with Permittees and Division Employees	page 17
35.II. 1 2.11	Chapter 11. Manufacturer's Representative	page 18
35.II. 1 2.12	Chapter 12. Gifts, Gratuities, and Inducements	page 19
35.II. 1 2.13	Chapter 13. Samples of Alcoholic Beverages	page 20
35.II. 1 2.14	Chapter 14. Distribution	page 22
35.II. 1 2.15	Chapter 15. Manufacturer (Rectifier)	page 22
35.II. 1 2.16	Chapter 16. Qualifications for Agents	page 22
35.II. 1 2.17	Chapter 17. Mutilation of Shipping Labels	page 23
35.II. 1 2.18	Chapter 18. Regulations Setting Forth the Requirement of Automatic and Electronic Liquor and Wine Dispensing Systems	page 23
35.II. 1 2.19	Chapter 19. Permittees, Employees and/or Agents Shall Not Be Visibly Intoxicated or Under the Influence of Any Alcoholic Beverage, Beer or Light Wine On Permitted Premises; No Consumption for Package Retailers on Permitted Premises; Limited Consumption for On-Premise Permittees Under Specific Circumstances	page 24
35.II. 1 2.20	Chapter 20. Sales of Alcoholic Beverages by Approved Package Retailers to Other Retailers	page 25
35.II. 1 2.21	Chapter 21. Governmental Affairs Representatives	page 26
35.II. 1 2.22	Chapter 22. Exchanges, Credits and Refunds	page 27

35.II.42.23	Chapter 23. Sale of Soft Drinks, Ice, Juices, Mixers and Other Items	page 27
35.II.42.24	Chapter 24. Check Cashing	page 28
Subpart 23.	<u>Licensing/Permitting</u>	
35.II.23.01	Chapter 01. Bonds	page 28
35.II.23.02	Chapter 02. Permit Limit	page 29
35.II.23.03	Chapter 03. Filing Fee	page 29
35.II.23.04	Chapter 04. Permittee Must Maintain Qualifications and Pay Taxes ..	page 30
35.II.23.05	Chapter 05. Permit Transfer	page 30
35.II.23.06	Chapter 06. Death or Disability of a Permittee	page 31
35.II.23.07	Chapter 07. Temporary and Qualified Resort Areas	page 31
35.II.23.08	Chapter 08. Common Carriers Reporting	page 33
35.II.23.09	Chapter 09. Qualifications of Employees and Managers	page 34
35.II.23.10	Chapter 10. Management Agreement	page 34
35.II.23.11	Chapter 11. Applicant Requirements	page 35
35.II.23.12	Chapter 12. Hotels	page 37
35.II.23.13	Chapter 13. Temporary Alcoholic Beverage Permits	page 37
35.II.23.14	Chapter 14. Caterer's Permits	page 40
35.II.23.15	Chapter 15. Alcohol Processing Permit	page 41
Subpart 34.	<u>Warehouse Operations</u>	
35.II.34.01	Chapter 01. Disposition of Inventory When Permit Is Revoked or Not Reissued or When Counties Vote to Go Back Under Prohibition Laws	page 42
35.II.34.02	Chapter 02. Uniform Prices	page 44
35.II.34.03	Chapter 03. Cash Payment	page 45
35.II.34.04	Chapter 04. Split Cases	page 46
35.II.34.05	Chapter 05. Special Order Procedures	page 46
35.II.34.06	Chapter 06. Importers, Vintners, and Distillers Warehouses	page 47
35.II.34.07	Chapter 07. Procedure for Listing Alcoholic Beverage Items	page 48
35.II.34.08	Chapter 08. Procedure for Delisting/Deleting Alcoholic Beverages ...	page 53
35.II.34.09	Chapter 09. Dual Packaging	page 54
35.II.34.10	Chapter 10. Bailment Procedures-Policies and Procedure of Mississippi Alcoholic Beverage Control Bailment Warehouse	page 54
Subpart 4.	<u>Administrative Procedures</u>	
35.II.4.01	Chapter 01. Administrative Procedure Before The State Tax Commission	
 on the Alcoholic Beverage Control Statute	page 51
35.II.4.02	Chapter 02. Appeal From Administrative Denial Of Permit Resort	
 Area Application, Manager Application or Employee ID Card	page 52
35.II.4.03	Chapter 03. Postponements, Cancellations, And Continuances Of	
 Hearings	page 52

Subpart 5.	Native Wines	
35.II.5.01	Chapter 01. Applicant Requirements	page 68
35.II.5.02	Chapter 02. Production.....	page 69
35.II.5.03	Chapter 03. Taxation	page 69
35.II.5.04	Chapter 04. Retail Operations	page 70

Subpart 01 General and Administrative

Chapter 01 Definitions

100 Definitions

When used in this Regulation:

1. Alcoholic beverage means any alcoholic liquid, including distilled spirits, native wines and wine of more than 5% alcohol by weight, capable of being consumed by a human being. The term does not include wines of 5% or less of alcohol by weight and beer containing not more than 5% alcohol by weight pursuant to Miss. Code Ann. Section 67-1-5.
2. Bailment warehouse is a warehousing method whereby alcoholic beverages owned by the vendor are stored in the Liquor Distribution Center (LDC) for subsequent purchase by the Department and shipment to retail permittees.
3. Board of Tax Appeals means the three member appeal body as legally constituted and authorized by statute.
4. Chief of Enforcement means the head of the Alcoholic Beverage Control Division Enforcement Section or his designee.
5. Commissioner means the Commissioner of the Department of Revenue or his designee.
6. Department or Department of Revenue means the various offices, bureaus, and divisions of the Mississippi Department of Revenue that incorporate the functional duties and responsibilities of the Commissioner as authorized by law.
7. Director means the Director of the Alcoholic Beverage Control Division or his designee.
8. Division means the Alcoholic Beverage Control Division of the Department of Revenue and shall include its director, enforcement personnel and all other employees.
9. Executive Director means the Executive Director of the Board of Tax Appeals.
10. NABCA means the National Alcohol Beverage Control Association.
11. On-premise retailer permittee means any person issued a permit authorizing the sale of alcoholic beverages, including native wines, for consumption on the licensed premises only pursuant to Miss. Code Ann. Section 67-1-51 1(c). The term includes qualified hotels, restaurants and clubs, common carriers and qualified resort area permittees.
12. Package retailer permittee means any person issued a permit authorizing such person to operate a store exclusively for the retail sale of sealed and unopened alcoholic beverages pursuant to Miss. Code Ann. Section 67-1-51 1(b).
13. Permit means any of the permits issued by the Department pursuant to Miss. Code Ann. Section 67-1-51.

101 (Reserved)

Chapter 02 Administrative Provisions

100 The Alcoholic Beverage Control Division is hereby empowered, authorized, and directed

to carry out fully the provisions of Miss. Code Ann. Title 67 and these regulations.

101 It is the intent of the Department that each and every one of these regulations, and parts thereof, are independent from the other; that each could stand alone; and to this end the provisions of these regulations, and parts thereof, are severable.

102 All records of any person holding a permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be open for examination at any time by the Department or its duly authorized agents.

103 (Reserved)

Chapter 03 Appeal Procedures

100 Pursuant to Miss. Code Ann. Section 67-1-72, certain decisions of the Department may be appealed. Any request for such appeal shall be made to the Board of Tax Appeals.

101 The following decisions of the Department may be appealed:

1. Denial of an application
2. Denial of a permit renewal
3. Revocation of a permit
4. Suspension of a permit
5. Denial of an applicant for approved manager
6. Denial of a request for qualified resort area status
7. Revocation of a qualified resort area status

102 The procedures for filing an appeal shall be:

1. The aggrieved person must submit a request for appeal in writing;
2. The request must be submitted to the Executive Director of the Board of Tax Appeals and a copy must be sent to the Department; and
3. The request must be made within fifteen (15) days of the date the person received notice from the Department.

103 If the aggrieved person fails to appeal within the fifteen (15) day period, the action of the Department shall take effect as set out in the notice.

104 The Department retains the authority to change its decision.

105 If the decision of the Department is due to an incomplete application, failure of the applicant to pay the annual privilege taxes and fees pursuant to Miss. Code Ann. Section 27-71-5 or failure of the applicant to post the required bond, then the decision of the Department does not constitute a denial and may not be appealed.

106 No permit shall be suspended or revoked until the permittee has been given reasonable notice of the reason for suspension or revocation. The permittee shall be given the opportunity to appeal the suspension or revocation to the Board of Tax Appeals.

- 107 The permittee may waive his rights to reasonable notice and/or the opportunity to a hearing by agreeing to a suspension or revocation as offered by the Department.
- 108 If an applicant fails to timely request a hearing after notification of the request for suspension or revocation, the applicant is considered to have had an opportunity for a hearing.
- 109 (Reserved)
- 200 If an application for renewal of a permit has been denied by the Department for any reason other than incompleteness, failure to pay applicable privilege taxes and fees or failure to post any required bond, the permittee may continue to operate under the permit until the last of the following dates:
1. The date on which the permit expires;
 2. The date on which the time period for filing an appeal of the denial to the Board of Tax Appeals expires;
 3. The date of withdrawal of a timely filed appeal to the Board of Tax Appeals; or
 4. The date on which the permittee receives the notice of the Board of Tax Appeals affirming the denial of the permit renewal.
- 201 If the Board of Tax Appeals reverses the Department's decision to deny the renewal, the Department shall renew the permit and issue the permit from its last expiration date.
- 202 The Department has the authority to appeal the decision of the Board of Tax Appeals to chancery court pursuant to Miss. Code Ann. Section 67-1-39. If the court enters a final decision and/or order reversing the decision of the Board and affirms the denial of renewal of the permit, the permit shall be deemed denied and the permittee is not authorized to sell alcoholic beverages under that permit after the date the court decision becomes final and is not subject to any further appeal.
- 203 (Reserved)
- 300 The Department has the authority to approve or deny applications for qualified resort status as well as to revoke a current qualified resort status. Appeals for issues related to qualified resort status may be made by the applicant or permit holder; the county or municipality where the qualified resort status is located; or by any person objecting to the qualified resort area.
- 301 The Department has the discretion to publish notice of its decision to revoke approval of a qualified resort area in the same manner as provided in Title 35, Part II, Subpart 03, Chapter 07 of the Mississippi Administrative Code as it relates to approval of a qualified resort area. The fifteen (15) day period for appeals will begin on the date the notice is first published. If an appeal is not filed within this fifteen (15) day period, the decision of the Department is final.

302 Any county or municipality where a proposed qualified resort area is to be located or where a qualified resort area is currently located may appeal the decision of the Department to deny the request for approval or the revocation of the resort areas status. Such appeal shall be made to the Board of Tax Appeals and shall follow the procedures provided in Paragraph 101 of this Chapter.

303 (Reserved)

400 Any other person may also request a hearing before the Board of Tax Appeals related to:
1. Objections to an application for a qualified resort status;
2. Objections to the transfer of an existing permit; or
3. Objections to the issuance of any permit with the exception of a temporary retailer's permit.

401 There will be no hearing in cases where the application is denied by the Department and the applicant does not appeal the Department's decision or if the applicant withdraws the application; or if the county or municipality where the proposed qualified resort area is located does not appeal the Department's decision.

402 If the Department denies the application, then the procedures found in this chapter for appeal of a denial of an application shall be in effect. The Department will advise the Executive Director and the applicant of any objection to the application and the Board of Tax Appeals shall schedule a hearing on the objection and a hearing on the appeal at the same time.

403 If the Department approves the application, then the Department will advise the applicant and the Executive Director of the request for a hearing on an objection to the application. The Board of Tax Appeals shall schedule a hearing on the objection.

404 The Department has the authority to approve the application if the person objecting to the application withdraws the request for hearing.

405 A request for a hearing on the objection must be filed with the Department within fifteen (15) days from the first date of publication of the notice of application pursuant to Miss. Code Ann. Section 67-1-53.

406 (Reserved)

500 Any person who has an interest in any alcoholic beverages or raw materials which the Department intends to dispose of under Miss. Code Ann. Section 67-1-18 shall be given a reasonable notice of the Department's proposed disposal. Such person may request a hearing before the Board of Tax Appeals to establish a right or claim to the property.

501 Request for an appeal shall follow the same procedures set out in paragraph 101 of this Chapter.

502 If a request is not received within the fifteen (15) day period, then the Department may order the property to be disposed of pursuant to Miss. Code Ann. Section 67-1-18.

503 (Reserved)

Subpart ~~021~~ Enforcement

Chapter 01 Violations

100 Any person, firm, association, corporation, LLC, hotel, restaurant, or club defined in the Local Option ~~Alcoholic Beverage Control L~~law that shall violate any of the provisions of the ~~said~~ law, or knowingly permit the violation of the ~~said~~ law upon its premises, and as a result of the violation their permit is revoked, shall not be eligible to obtain any permit provided ~~for pursuant to Section 67-1-51, Miss. Code Ann. Section 67-1-51, Mississippi Code of 1972, Recompiled~~, for a period of twelve (12) months after the date ~~of violation~~, unless such violation shall prohibit the person from receiving a permit the revocation becomes final.

101 Unless otherwise provided by law, the ~~Department~~Commission may revoke or suspend any permit permits and/or ABC identification cards issued for a violation by the permittee or an agent or employee of the permittee of any provisions of the Local Option Alcoholic Beverage Control Law or of any of the provisions of the regulations promulgated under it by the Department. ~~upon conviction before the Commission of the permittee of one (1) or more clerks, agents or employees of a permittee of the laws, rules and regulations governing the sale of alcoholic beverages.~~ In taking such action the ~~Department~~Commission ~~may~~shall consider prior offenses committed by the permittee and/or its agents or employees within a period of two (2) years from the date of the most recent offense.

102 In addition to suspension or revocation of permits ~~and/or identification cards~~, the ~~Department~~Commission ~~may~~ impose fines not to exceed one thousand dollars (\$1,000.00) upon conviction by any person, firm, association, corporation, LLC, hotel, restaurant, or club for violations ~~of any person by the Commission for the violation of any of the provisions of the regulations promulgated by the Department under the Local Option law. ABC rule or regulation. The Commission shall not impose said fines until the person is given an opportunity for a hearing.~~ Failure of a permittee to pay fines within a time designated by the ~~Commission~~Department will result in revocation of ~~his/her ABC Identification card~~the permit. Failure of a manufacturer representative to pay fines ~~will~~may result in the suspension of the representative's products from sale in the State. ~~Any person who fails to pay a fine imposed by the Commission shall be prohibited from working in a permitted establishment.~~

~~103 The Director of the Alcoholic Beverage Control Division is hereby empowered, authorized, and directed to carry out fully the provisions of this Regulations Chapter and Section 67-1-17, M~~Miss. Code Ann. Section 67-1-17~~issippi Code of 1972, Recompiled.~~

~~1034~~ (Reserved)

Chapter 02 Advertising and Promotions

- 100 No person, firm or corporation shall originate advertisements in “dry” counties of this State, pursuant to Miss. Code Ann. ~~Sections §§~~ 67-1-1, 67-1-13, 67-1-15 and 67-5-5, when such advertisement deals with an alcoholic beverage, including but not limited to advertisements by newspapers, radio, television, circular, dodger, word-by-mouth, signs, billboards, displays or any other advertising media.
- 101 All alcoholic beverage advertising, and any industry related promotions such as contests and sweepstakes should about which a person is in doubt should be submitted be submitted to the Chief of Enforcement Alcoholic Beverage Control Division of the Department of Revenue ~~Mississippi State Tax Commission~~ for prior ~~PRIOR~~ approval.
- 103 (Reserved)
~~35.11.01.02 updated effective January 11, 2007.~~

Chapter 03 Permitted Premises Where Alcoholic Beverages Are Sold

- 100 No person shall sell or offer for sale any alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.
- ~~101~~ In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcoholic beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place of sale of the aforesaid alcoholic beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.
- 102 The minimum distances, as provided in Miss. Code Ann. Section 67-1-51(3), Mississippi Code of 1972, as amended, shall be measured from the nearest point of the building housing the church, school, kindergarten or funeral home to the nearest point of the premises which consist of the floor planned area to be licensed, ~~by the Commission.~~ This distance shall be measured in a straight line, such as air line distance, rather than the usual route of pedestrian travel.
- ~~101~~ ~~No person shall sell or offer for sale any alcoholic beverages within four hundred (400) feet of any church, school, kindergarten, or funeral home, provided, however, within an area in which both the premises and the church, school, kindergarten, or funeral home are zoned commercial or industrial such minimum distance shall not be less than one hundred (100) feet.~~
- ~~102~~ ~~In instances in which a church, school, kindergarten or funeral home is located in a residential district and the place of sale of any alcoholic beverages shall be located in an adjacent commercial or industrial district, such minimum distance between the place of~~

- sale of the aforesaid alcoholic beverages and the church, school, kindergarten or funeral home shall be four hundred (400) feet.
- 103 ~~Effective June 1, 1996, a~~Any location at which any alcoholic beverages are lawfully being presently offered for sale which does not conform to the above mentioned provisions shall be permitted to continue such sales, until such time as the business is abandoned for a six month period.~~If a church, school, kindergarten or funeral home moves to a location within the stated distance requirements, any permit issued to a business prior to the move will remain lawful unless the location ceases operations for six (6) months. Transfer of a permit is not considered ceasing operations.~~
- 104 A church or funeral home may waive the distance restrictions in favor of allowing the issuance ~~by the Department~~commission of a permit authorizing the sale of alcoholic beverages that would otherwise be prohibited under the minimum distance requirements. Such waiver shall be in written form from the owner, the governing body, or the appropriate officer of the church or funeral home having the authority to execute such a waiver, ~~and t~~ The waiver shall be filed with and verified by the Department ~~commission~~ before becoming effective.
- 105 A door must be located at or near the front of every place of business selling packaged alcoholic beverages. The back door to such place of business or storage area must be kept locked at all times except when merchandise is being received. Exceptions will be made in ~~in~~ cases of orders or ordinances of a governing authority forbidding the locking of a back door because of a fire hazard, ~~the Commission will make exceptions to this rule.~~
- 106 Surplus stock must be stored in the same building where the retail business is being conducted ~~unless a waiver is obtained as provided in Paragraph 109 below, but n~~ Nothing shall prohibit the owner or manager of such a place of business from erecting a partition between the retail and the storage area, thereof. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may use a common storage facility located and identified on the floor planned area for all alcoholic beverages purchased.
- 107 In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may use a common storage facility located and identified on the floor planned area for all alcoholic beverages purchased. A permittee utilizing a common storage facility for a business establishment with multiple permits must submit a floor plan of the common storage facility that designates where alcoholic beverages purchased under each permit will be stored. Co-mingling of the permitted inventories by the multiple permittee shall result in the suspension or revocation of the permits.
- 108 All sales of alcoholic beverages shall be made inside the permitted premises.
- 109 Under very limited circumstances, a permittee may request a waiver ~~from the Department~~State Tax Commission to authorize the storage of surplus alcoholic beverages in a location that is separate from the building where the retail business is being

conducted. Any off-site storage exception or waiver request must be approved by the ~~Division~~Commission and spread upon the ~~Commission's minutes in order to be ratified~~. A request for a waiver must meet the following requirements:

6. The off-site storage location must meet all distance requirements of Miss~~issippi~~ Code Ann.~~etated~~ Section 67-1-51 in the same manner as the retail premises as well as all local ordinances pertaining to zoning. Further, the proximity of the off-site storage location to the permittee's retail premises shall be considered ~~by the Department~~Commission.
7. All entrances and any other access to the storage facility must remain secure ~~and locked at all times, except when merchandise is being received or transferred to the retail location.~~ ~~The Department~~Commission may request a copy of the a floor plan of ~~the~~the off-site location may be requested, as well as a copy of the permittee's deed or lease to ensure ~~that~~that permittee can accomplish restricted access to the off-site location.
8. The exclusive use of the off-premises location must be storage of surplus ~~alcoholic beverage inventory and items authorized for sale by Title 35 of the Mississippi Administrative Code, Part II, Subpart 24, Chapter 23 of the Mississippi Administrative Code.~~ There shall ~~be~~be no other use of the off-site storage location.
9. A permittee utilizing an off-site storage location for a business establishment ~~with multiple permits must submit a floor plan of the facility that designates where alcoholic beverages purchased under each permit will be stored at the off-premises location. Co-mingling of the permitted inventories by a multiple permittee shall result in the suspension or revocation of the permits.~~
10. The permittee must demonstrate a specific, ~~articulable~~articulable business necessity for ~~the waiver request as it the same~~it the same relates to the shelf/storage space and inventory cycles of the permittee's retail premises.

- 110 In addition to the above, ~~the Department~~Commission may request any other documentation from the permittee deemed relevant for consideration of a waiver ~~request may be requested~~request may be requested to ensure compliance with all ~~ABC~~ABC laws and regulations. ~~On a case-by-case basis, a~~Any waiver granted pursuant to this regulation may be subject to special conditions imposed by the ~~Department~~Commission. ~~The Department Commission may revoke Any a~~Any a waiver for an off-site storage location may be revoked at any time. The permittee will be notified of the revocation in writing.

111 (Reserved)

Chapter 04 Hours ~~A~~and Days During Which Alcoholic Beverages May Be Sold ~~B~~by Hotels, Restaurants, Clubs, Package Stores ~~A~~and Caterers

- 100 On-premise permittees, ~~or~~or clubs or caterers may make sales of alcoholic beverages at the permitted location between the hours of 10:00 a.m. and midnight, except that no sales or deliveries of alcoholic beverages shall be made to any person on Sundays. It is further provided that on New Year's Eve, on- premises permittees, ~~and~~and clubs or caterers may be allowed to remain open until 1:00 a.m., January 1st. In the event that New Year's Eve

falls on Sunday, on-premises permittees, ~~and clubs or caterers~~ may make sales of alcoholic beverages at the permitted location between the hours of 1:00 p.m. and 1:00 a.m. Provided, however, the governing body of any municipality may petition the ~~State Tax Commission~~Department to permit sales by on-premises permittees, ~~or clubs or caterers~~ located within the municipality at other times, and also the hours of sale may, with the approval of the ~~Department, State Tax Commission,~~ be either shortened or extended. In the event that a municipality or county would prefer not to recognize the extension of hours on New Year's Eve when the holiday falls on Sunday, the municipality or county shall notify the ~~Alcoholic Beverage Control Enforcement Section Chief of Enforcement~~, in writing, no later than September 1 of that year. The Board of Supervisors of any county may file such a petition with the ~~Department State Tax Commission~~ for on-premises permittees, ~~or clubs or caterers~~ located outside a municipality. All such petitions must be accompanied by a certified copy of the order of the municipal governing authority or the Board of Supervisors requesting such permission. Regardless of the date of request, any extension will not be effective until approved by the Department.

101 Resort areas are exempt from the above provisions requiring the sale of alcoholic beverages to be between the hours of 10:00 a.m. and midnight. However, the governing body of any municipality may petition the ~~Department State Tax Commission~~ to designate the hours of sale of alcoholic beverages for a resort area on-premises permittees or clubs located within the municipality. The Board of Supervisors of any county may also file such a petition ~~with the Department State Tax Commission~~ for resort area on-premises permittees or clubs located outside a municipality. Upon receipt of the above mentioned petitions, or upon its own motion, the ~~Department Commission~~ shall consider the same and set whatever hours of sale it deems appropriate for any particular resort area. All such petitions must be accompanied by a certified copy of the resolution of the municipal governing authority or the Board of Supervisors requesting such permission.

102 It shall be unlawful for any holder of a package retailer's permit ~~to~~, for any employee or agent thereof, to sell, give away, deliver or barter any alcoholic beverages before 10:00 a.m. and after 10:00 p.m., or on any Sunday, or on Christmas Day.

103 (Reserved)

Chapter 05 —Purchase ~~A~~and Sale ~~O~~f Distilled Alcoholic Beverages ~~B~~y On-Premises Permittees

100 All sales of alcoholic beverages by on-premises permitted places of business shall be made by the drink, EXCEPT bottles of distilled alcoholic beverages which may be sold as follows:

1. At such businesses being operated in connection with hotels and motels, ~~which may~~ which may sell such beverages in bottles for delivery to and consumption in rooms of registered guests.
3. On-premises retailer clubs may sell exclusively to its members such beverages in bottles for delivery and consumption only upon the club's permitted premises. Each

bottle must clearly reflect ~~thereon~~ the club member's name ~~who~~that purchases the bottle.

~~4. Wine and champagne which may be sold by any on-premises permittee by the bottle for consumption exclusively in the permitted place of business.~~

101 All sales of alcoholic beverages by on-premises permittees shall be for consumption in the licensed premises only. The licensed premises shall consist of the area designated in the floor plan. In the event that a permittee has multiple permits for a business establishment and there is controlled access to all areas of the establishment, the permittee may submit an all inclusive floor plan of the entire enclosed area. The ~~Department~~Commission shall have the discretion to allow the consumption of alcoholic beverages throughout the permitted area regardless of where on the premises the beverages are purchased as long as the ~~Commission~~Department ~~it~~ is satisfied that the permittee is the actual owner of the entire premises and that there is sufficient controlled access to the premises.

102 No on-premises permittee shall sell or allow consumption of alcoholic beverages inside the premises where the business is conducted, such as the lounge, bar or restaurant except during hours when alcoholic beverages may be legally sold, as set forth in Title 35, Part II, Subpart 02~~+~~ Chapter 4 of the Mississippi Administrative Code. However, alcoholic beverages may, ~~with prior written approval from the Commission,~~ be consumed during other hours at a permittee sponsored Christmas party for his employees; or on Sunday after 1:00 p.m., in a privately leased banquet room of a permittee with prior written approval from the Department. An application, in writing, stating the date, beginning and ending time of the event, the number of employees (or persons, when applicable) anticipated to attend, and a copy of the lease agreement (when applicable) must be submitted to the ~~Chief of Enforcement~~ Commission by the permittee ~~at least ten (10) two weeks days~~ prior to ~~said the~~ Christmas party or lease agreement. Christmas parties are restricted to permittee, employees and their ~~companions~~guest. No requests will be approved unless the permittee is in compliance with all rules and regulations of the Department.

103 No on-premises permittee shall allow alcoholic beverages to be brown-bagged by a consumer/customer on the premises where the business is conducted. However, this restriction does not apply to privately leased banquet rooms or privately leased hospitality suites. If a private banquet room or hospitality suite is leased to an individual and said individual desires to bring his own alcoholic beverages (brown-bagging), the permittee is strictly prohibited from ~~furnishing, selling and/or storing the brown bagged alcoholic beverages on the leased area providing or serving alcoholic beverage from their stock inside the lease area~~. On Sundays, when the ~~Department~~Commission specifically authorizes consumption as ~~described herein above~~ above set out, a consumer may ONLY brown-bag alcoholic beverages previously obtained from a package retailer in the State. All alcoholic beverages remaining in a leased banquet room or hospitality suite after the expiration of the lease shall be destroyed by the permittee.

105 No on-premises permittee shall allow its patrons to remove any alcoholic beverages sold at its place of business, except that a patron may remove one bottle of wine from the licensed premises when:

5. The patron consumed a portion of the bottle of wine in the course of a meal purchased on the licensed premises;

6. The permittee securely reseals the bottle;

7. The bottle is placed in a bag that is secured in a way as to be visibly apparent when the bag is opened; and

5-8. A dated receipt for the purchase of the wine and meal is available.

Formatted: Indent: Left: 0", Hanging: 0.5",
Numbered + Level: 1 + Numbering Style: 1, 2,
3, ... + Start at: 104 + Alignment: Left +
Aligned at: 0.5" + Indent at: 0.75"

1045 On-premises permittees operating a hotel or motel that elect to place mini bars in the rooms of registered guests are held responsible for keeping the mini bars locked with the issuance of keys restricted to guests who present a valid identification card verifying that he or she is over 21 years of age.

1056 No permittee may refill any alcoholic beverage container with an alcoholic beverage.

1067 When a patron requests a specific brand of alcoholic beverage, no permittee may dispense an alternate brand of alcoholic beverage without first notifying the customer that the requested brand is not available.

1078 (Reserved)

Chapter 06 -Retailer's Records

100 Retailers must keep records. It will be the duty of every retailer of alcoholic beverages to keep and preserve for a period of three (3) years adequate records of the ~~gross income, gross receipts, or~~ gross proceeds of sales of the business. The retailer shall also keep including itemized invoices for all merchandise purchased (and whether procured from local or other retail or wholesale outlets), all itemized purchase invoices and tickets shall bear the date of purchase, name of the seller and purchaser, all bank statements and cancelled checks, and all other books or accounts as may be necessary to determine the financial position of the business. All itemized purchase invoices and tickets shall bear the date of purchase, name of the seller and purchaser. Cash register tapes may not be used in lieu of itemized invoices for record purposes. In addition to the above records, restaurants shall keep records of gross sales in three (3) separate ~~accounts~~ categories; food, beer and alcoholic beverages. Said-Such records shall be adequate in substance to conform with generally accepted accounting practices and all ~~of such~~ records shall be written in the English language. All records shall be open for examination at any time by the Director, any ~~member~~ authorized employee of the ~~Department, State Tax Commission, or~~ or their ~~its~~ duly authorized agent.

101 The records provided for in this regulation and applicable Federal regulations shall be kept at the retailer's place of business or at the office of his attorney or accountant within this state. Failure to keep and allow examination of such records shall subject the permittee to immediate forfeiture of license.

- 102 Restaurants located within a Qualified Resort Area are exempt from the food sale requirement as defined provided by Miss. Code Ann. 67-1-5 but must maintain itemized records as any other restaurant permittee. ~~(Reserved)~~

103 ~~(Reserved)~~

Chapter 07 -Prohibited Conduct ~~A~~and Activities

- 100 No person holding an alcoholic beverage ~~retailer's on-premises~~ permit, and no agent, associate, employee, representative, entertainer or servant of any such permittee shall do, or permit, any of the following activities or events on or about the licensed premises:
8. Fraternize by sitting at tables with customers while on duty; or to employ persons to solicit patrons for ~~drinks drinks~~ ~~AND-~~ to accept drinks from patrons ~~AND-and~~ receive ~~therefore~~ a commission or any other re-~~muna~~meration in any other way.
 9. Permit any prostitute to frequent the licensed premises, or to solicit patrons for prostitution.
 10. Permit any person to remain on the premises while such person is unclothed or in such attire, costume or clothing to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, the pubic hair area, anus, cleft of the buttocks, vulva, penis or genitals. Furthermore, no female permittee or any female agent, associate, employee, representative, servant, or entertainer of said permittee shall wear such attire, costume or clothing on the licensed premises which reveals any part of the female breast below the top of the areola ~~AND-and~~ such attire, costume, clothing or attachment thereto is extraordinarily designed or displayed to specifically accentuate the breasts.
 11. Encourage or permit any person, for entertainment purposes, to touch, caress or fondle the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
 12. Permit any person to wear or use any device or covering, exposed to view, which simulates the breast, buttocks, anus, penis or genitals of their own, or those of any person, animal or inanimate object.
 13. Permit live entertainment or conduct which is lewd, immoral or offensive to public decency, including:
 - a. Any live act or performance of, or which simulates:
 - ii. Sexual intercourse, masturbation, sodomy, bestiality, or oral copulation, flagellation or any sexual act prohibited by law.
 - ii. The touching, caressing or fondling of the breast, buttocks, anus, penis or genitals.
 - iii. The displaying of the pubic hair, the pubic hair area, anus, vulva, penis, genitals or any portion of the female breast below the top of the areola.
 - iv. The use of any artificial device or object to depict any of the prohibited activities described above.
 - c. Any live act or performance which appeals primarily to sexually oriented, lustful, prurient, or erotic interest including, but not limited to, the following: erotic dancers; male or female strippers; topless dancers (male or

female); dancers where clothes are removed to reveal portions of the body ~~AND~~and constituting a strip act or simulation thereof; contests or exhibitions such as wet t-shirt, biggest breast, biggest bulge, body beautiful, best leg, hairiest chest, best tan, best hiney, mud wrestling, tight jeans, and contests or exhibitions involving the use of swim wear, lingerie or similar attire.

14. The showing of films, still pictures, electronic reproduction, or other visual reproductions depicting:
 - a. Acts, or simulated acts, or sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual acts which are prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttocks, anus, penis or pubic area.
 - c. Scenes wherein a person displays the vulva, anus, penis or genitals or pubic area.
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.
8. Allow disorderly or boisterous conduct or the use of profane or vulgar language; provided this regulation shall not apply to remarks made by entertainers/entertainment groups in the course of their performance unless otherwise prohibited by the laws of the State of Mississippi, and as long as:
 - a. The performance takes place in a portion of the licensed premises which has a sign conspicuously posted at each entrance, advising the public choosing to enter the portion of the premises of the nature of the performance and that certain words or phrases used may be considered offensive or insulting by some persons, and
 - b. That any use of profane language, addressed in paragraph (8) above, is not so amplified as to be clearly and distinctly audible in other areas of the licensed premises or beyond the premises.
9. On-premises permitted places of business may charge an admission fee, a cover or minimum charge, or an entertainment fee but shall not require the purchase of alcoholic beverages in order for a customer to enter or remain in such permitted place.

101 The permittee shall be responsible at all times for any and all of the aforesaid actions which may take place in any permitted establishment whether he or his manager is present at such times or not. The ~~Department~~Commission may revoke or suspend the license of any permittee for the violation of any of the provisions of this ~~regulation~~chapter. Any questions regarding the permissibility of activities or conduct governed by this regulation should be submitted, in writing, to the Chief of Enforcement, Director of the Alcoholic Beverage Control Division.

~~402 It is the intent of the Department~~Commission that each and every part of this regulation is independent from the other; that each could stand alone; and to this end the provisions of this regulation, and parts thereof, are severable.

1023 Permittees shall be accountable for any criminal conduct which occurs or is suffered to occur on any part of the licensed premises. When the Department finds that such criminal conduct is allowed, caused, permitted, or suffered to occur by the permittee, the permit shall be subject to suspension or revocation. The Department may take into consideration the reports of other local law enforcement agencies and the District Attorney when reviewing a violation of this regulation.

1034 (Reserved)

Chapter 08 -Employment ~~Of~~ Persons Under Age 21 Prohibited

100 No holder of a package retailer's permit shall ~~be in his~~ employ in the sale of alcoholic beverages or in the handling thereof (except to unload in sealed cartons, boxes, or similar shipping packages, which packages shall remain sealed at all times they are being handled) any person under the age of twenty-one (21) years old.

101 ~~Notwithstanding the foregoing, a~~ person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if such activities are in the scope of his employment by the holder of an on-premises retailer's permit. The employer must keep record of the removal of minority for all employees as described above. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity as a bartender. This regulation is not intended to prohibit a person under twenty-one (21) from working as an entertainer.

102 (Reserved)

Chapter 09 -Cooking Wines

100 All wines containing more than five percent (5%) alcohol by weight are considered an alcoholic beverage and shall be possessed, transported, sold, purchased, etc., in accordance with and under the provisions of the Local Option ~~Alcoholic Beverage Control L~~aw, except salted wines which contain not in excess of twenty-one percent (21%) alcohol by volume and not less than 1.5 grams of salt per 100 cubic centimeters. Such wines are not considered capable of being consumed as a beverage by a human being and, therefore, are exempt from the provisions of the Local Option ~~Alcoholic Beverage Control L~~aw.

101 (Reserved)

Chapter 10 -Restriction on Interest ~~Of~~ Permittees And Division Employees

100 No officer, agent or employee ~~assigned to~~ the ~~Alcoholic Beverage Control~~ Division ~~of the State Tax Commission~~ nor any permittee shall at any time hold stock in any business engaged in the manufacture, distillation, importation or rectifying of alcoholic beverages,

nor shall such person, other than the holder of a permit, own any interest in any place of business licensed to sell alcoholic beverages.

101 (Reserved)

Chapter 11 -Manufacturer's Representative

100 A manufacturer's representative, who shall be the manufacturer's control state manager or an executive officer of the company, shall be recognized by the ~~Alcoholic Beverage Control Division of the State Tax Commission~~ only after proper application for registration has been made by the manufacturer and approved. In either case, the individual designated as a manufacturer's representative and approved to do business with the ~~Alcoholic Beverage Control Division~~ must be a full time employee of the manufacturer.

101 The manufacturer's registered representative may authorize persons to work for the manufacturer within this state; each of whom must be registered with the ~~Alcoholic Beverage Control Division~~. As employees are added or replaced it will be the responsibility of the manufacturer to register or have deleted the names of such employees with the ~~Alcoholic Beverage Control Division of the State Tax Commission~~. Such employees may represent more than one manufacturer.

102 The manufacturer's registered representative shall be held responsible for all activities, including the personal conduct, of all employees of the manufacturer in connection with the representation of their business in this state. Every employee or representative of a manufacturer shall observe state laws and the rules and regulations of the ~~Alcoholic Beverage Control Division of the State Tax Commission~~.

103 The registration of a manufacturer's representative and his employees, ~~or any number thereof,~~ may be suspended and the manufacturer's products may be de-listed by the ~~Director of the Alcoholic Beverage Control Division~~ and/or a civil penalty not to exceed \$1,000.00 may be imposed at the direction of the ~~Department Commission~~ if it shall appear to the satisfaction of the ~~Department Commission~~ that the law or the policies and/or regulations of the ~~Alcoholic Beverage Control Division of the State Tax Commission~~ have been violated by the manufacturer, the manufacturer's registered representative, or any employee of the manufacturer working in the state.

104 This regulation does not affect the manufacturer's employment of legal counsel regularly engaged in the practice of law in matters concerning the application and interpretation of law. Further, this regulation does not apply to manufacturer's representatives in instances where ~~ABC~~ the Division solicits special orders only for its product inventory.

105 A distiller's, distributor's, rectifier's, or importer's representative or employee shall be recognized under the same conditions established in this regulation for a manufacturer's representative.

106 (Reserved)

Chapter 12 - Gifts, Gratuities, ~~A~~ and Inducements

100 Pursuant to Miss. Code Ann. Section 67-1-77(2), no holder of a manufacturer's or wholesaler's permit, or anyone connected with the business of such holder, or for any other distiller, wine manufacturer, brewer, rectifier, blender, or bottler shall make an offer of gifts, gratuities, or inducements of any kind whatsoever to any retailer in Mississippi when such gifts or gratuities are in any way connected with or associated with any phase of the purchase, sale, marketing, distribution or control of alcoholic beverages within the State of Mississippi, except as ~~authorized herein~~ provided below.

101 The holder of a manufacturer's or wholesaler's permit, or any distiller, wine manufacturer, brewer, rectifier, blender, bottler, or anyone connected with such businesses, may ~~however~~ furnish, subject to the same requirements and limitations of the Federal Tied House Regulations and Interpretations ~~thereof~~ and not otherwise contrary to state law, the following: wine list; glassware; retailer equipment; inside signs; supplies; services; educational seminars; product displays; and advertising specialties to Mississippi alcoholic beverage retailers, not to exceed nominal value, ~~as provided hereafter~~.

~~401.01~~ 102 Educational seminars, trade shows or tasting events for licensed retailers sponsored by any employee or registered agent of any alcoholic beverage manufacturer, distiller or wholesaler, are permissible at licensed on-premise establishments, establishments holding ~~one-day~~ any temporary permits, or at conventions sponsored by and on behalf of alcoholic beverage retailer associations. All alcoholic beverages consumed at such seminars, trade shows, or tastings, other than approved conventions, ~~MUST~~ must be furnished exclusively by the on-premise permittee on his licensed premises. Manufacturer's representatives may transport and provide alcoholic beverages for tasting and exhibition at any convention sponsored by an alcoholic retailer association convention as long as the alcoholic beverages were previously purchased from a licensed retailer in this state. Samples of new products that are not available through a licensed retailer must follow the procedures for samples found in Title 35, Part II, Subpart 2, Chapter 13 of the Mississippi Administrative Code. Consumption of alcoholic beverages at ~~ALL~~ all seminars, trade shows and tasting events is limited to the hours of consumption set forth in Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 4 of the Mississippi Administrative Code.

~~401.02~~ 103 Any educational seminar, trade show or tasting event given for the general public (where alcoholic beverages are sampled), regardless of who sponsors the program, is limited to licensed on-premise establishments, or an establishment holding a ~~one-day~~ temporary permit, with the permittee exclusively furnishing the alcoholic beverages.

~~401.03~~ 104 Any person sponsoring an alcoholic beverage seminar or trade show occurring at a location in a "wet" county ~~NOT~~ not possessing any on premise alcoholic beverage

~~license permit~~ or a ~~one-day~~ temporary permit shall not distribute alcoholic beverages for tasting purposes or any other purpose.

1052 Alcoholic beverage samples, coupons, rebates or other inducements, which require proof of purchase, to anyone are strictly prohibited. Nothing in this regulation is intended to prohibit the type of activity permitted by Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 13; and Subpart ~~34~~, Chapter 9 of the Mississippi Administrative Code.

1063 Nominal value, as used in this ~~section~~chapter, shall be based on a per brand basis and shall mean the industry's purchase price or a reasonable wholesale value not to exceed the dollar limitations placed on said or like items pursuant to the Federal Tied House Regulations and adjustments made by the Director of the Alcohol and Tobacco Tax and Trade Bureau.

~~of the Bureau of Alcohol, Tobacco and Firearms.~~

~~104 All records shall be open for examination at any time by the Department State Tax Commission or its duly authorized agents.~~

1075 (Reserved)

Chapter 13 ~~Samples~~ Of Alcoholic Beverages

100 A manufacturer's representative and his employees, as described in Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 11, of the Mississippi Administrative Code may furnish one sample of a new product to any ABC licensed permitted retailer. This sample may be given to the permittee or to a manager on behalf of the permittee. Distribution of samples may occur only at the permitted business ~~and only after approval of the Department~~. Samples are to be used for the promotion of that specific product and may not be used as a gift or an inducement to purchase other products.

101 A sample of an alcoholic beverage is defined as an alcoholic beverage not previously purchased by that permittee. The size limit per item of samples of alcoholic beverages allowed is to be determined by federal guidelines and/or regulations.

102 Each bottle of product distributed as a sample must ~~have-be~~ clearly ~~stamped or printed upon the label~~ labeled with the word "SAMPLE".

103 Products used for samples must be delivered to the ~~Liquor Distribution Center~~ LDC Warehouse for distribution to the manufacturer's representative. The cases containing sample alcoholic beverages must be marked or stamped on at least two (2) sides of the case in bold letters with the word "SAMPLE" by the manufacturer prior to shipment. A separate ~~B~~bill of ~~L~~ading must accompany each case of sample alcoholic beverages and the word "SAMPLE" must be clearly marked on said ~~B~~bill of ~~L~~ading. Samples must be removed from the LDC Warehouse within 10 working days of receipt ~~thereof~~. Failure of the manufacturer's representative to remove samples from the LDC Warehouse upon the

expiration of ten (10) days will result in destruction of said products. The ~~ABC Division~~ will not be responsible for any damages occurring while said products are stored in the ~~LDC Warehouse~~.

- 103.1 The manufacturer's representative is responsible for paying all freight costs, excise taxes, ~~mark-up, sales or use taxes~~, and any other costs assessed on sample products upon receipt of that product from the ~~ABC LDC Warehouse~~. Distribution of any product on which taxes ~~are due have not been paid~~ is strictly prohibited.

- 104 The manufacturer's representative and his employees shall, on or before the fifteenth day of each month, file ~~a report with the Enforcement Section form ABCD2BR (6/92), with the ABC Enforcement Division~~ detailing the distribution of sample products for the preceding month. This report must also include the storage location and amount, by brand, of all sample alcoholic beverages held by the manufacturer's representative or his employees pending distribution.

- 105 The willful failure to file such reports, the falsification of such reports, or the distribution of product samples inconsistent with the law or with this regulation may result in the suspension of the registration of a manufacturer's representative and his employees. In addition, the ~~Department Commission~~ may de-list the manufacturer's products.

- 106 A manufacturer's representative, or his employee, may transport sample alcoholic beverages ~~anywhere within the state~~ provided that such person has obtained authorization for transport from the ~~Alcoholic Beverage Control~~ Division. Such products must be stored outside; the passenger compartment of a motor vehicle or in an enclosed container.

- 107 Package retailers may not consume samples of alcoholic beverages on their licensed premises.

- 107.1 ~~On-On~~-premises retailers, their managers and their employees, may consume sample alcoholic beverages only during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling.

- 107.2 An on-premises permittee may assemble other permittees, along with their licensed managers ~~or~~ employees, for purposes of sampling alcoholic beverages. Consumption of sample alcoholic beverages must take place during legal hours of sale and in an area removed from the general public. The manufacturer's representative must be present during sampling. ~~On-duty managers and employees are strictly prohibited from sampling alcoholic beverages.~~

- 108 No alcoholic beverage products distributed as samples may be sold, offered for sale, or distributed to any person by any permittee, manager, or employee of the permittee.

- 109 (Reserved)

Chapter 14 Distribution

100 No one except the holder of a permit or his authorized agent shall be allowed to purchase or request the shipment of alcoholic beverages by the ~~Alcoholic Beverage Control Division of the State Tax Commission~~.

101 (Reserved)

Chapter 15 Manufacturer (Rectifier)

100 No manufacturer's (rectifier's) permit shall be issued until satisfactory evidence is furnished ~~the Commission~~ that the applicant holds all permits or authorization required by the Federal Government.

101 Duplicate copies of monthly returns, transcripts, notices or other data, as required by the Federal Government, must be furnished to the ~~Alcoholic Beverage Control Division of the State Tax Commission~~ not later than the 10th of each month. In addition ~~thereto, such~~ manufacturers (rectifiers) shall furnish the ~~Alcoholic Beverage Control Division of the State Tax Commission~~ duplicate copies of the bills of lading covering all shipments of the products of the permittee.

102 All laws, ~~and~~ rules and regulations of the Federal Government, or any subsequent modification thereof, applicable to the manufacture (rectification) of distilled spirits, wines, cordials, liquors, etc., are by reference hereby adopted and promulgated as the rules and regulations of the ~~Alcoholic Beverage Control Division of the State Tax Commission~~.

103 (Reserved)

Chapter 16 -Qualifications ~~F~~or Agents

100 No person shall be employed as an agent of the ~~Alcoholic Beverage Control~~ Division unless he/she is of sound moral character and has reached the age of 21 years and meets the qualifications as set forth by the Mississippi State Personnel Board. The applicant must have a Bachelor's degree from an accredited four-year college or university in criminal justice, law enforcement, criminology, police science, police administration or a directly related field. Alternatively, the applicant must have a Bachelor's degree from an accredited four-year college or university and possession ~~of~~ a current State of Mississippi Law Enforcement Professional Certificate. Any agent of the ~~Alcoholic Beverage Control~~ Division is subject to assignment to any location within the State of Mississippi consistent with the mission needs of the agency for ~~ABC~~ alcoholic beverage enforcement.

101 (Reserved)

Chapter 17 -Mutilation ~~O~~f Shipping Labels

100 No permittee or employee ~~thereof of the permittee~~ shall mutilate, destroy or remove shipping labels or other information stamped or otherwise affixed to any case of alcoholic beverages delivered to ~~said the~~ permittee from the ~~Alcoholic Beverage Control Division warehouse LDC Warehouse~~ nor shall any permittee or employee ~~thereof of the permittee~~ ~~allow permit~~ the purchaser of alcoholic beverages to remove ~~such the~~ labels or information while on the permittee's premises.

101 ~~(Reserved)~~ Any action described above will be considered a violation of the regulations and will result in fines, suspension or revocation.

102 (Reserved)

Chapter 18- Regulations Setting Forth ~~T~~he Requirements ~~O~~f Automatic ~~A~~nd Electronic Liquor ~~A~~nd Wine Dispensing Systems

100 The installation of automatic and electronic dispensing systems by on-premises permittees is authorized, provided that the following requirements are complied with:

1. Such equipment must avoid an in-series hook-up which would permit the contents to flow from bottle to bottle before reaching the dispensing spigot or nozzle. Multiple bottles of alcoholic beverages utilized to supply a single line or tube in an in-series hook-up must be of identical brand and content.
7. Such equipment must dispense from the original containers, as received from the ~~Mississippi Alcoholic Beverage Control~~ Division. Once the contents flow from the original containers, as received from the ~~Mississippi Alcoholic Beverage Control~~ Division, into any such equipment, said contents shall not flow from such equipment into any other containers other than those used by said establishment for sale by the drink.
8. The permittee shall maintain records that reflect the brands and quantities of alcoholic beverages used in such systems.
9. The premises, including any places of storage, where the alcoholic beverages are dispensed, shall be subject to inspection by the ~~Mississippi Alcoholic Beverage Control~~ Division or ~~law enforcement~~ ~~peace~~ officers during all business hours for the purpose of inspection or for examination of any books and records required to be kept by on-premises permittees. Where any part of such installation is in a locked room or locked cabinet, permittees shall have a key to said room or cabinet available on the premises, and, upon request by any authorized representative of the ~~Mississippi Alcoholic Beverage Control~~ Division or ~~a law enforcement officer~~ ~~peace officers~~, such permittees or any employee thereof shall open said storage rooms, cabinets, or other places for such inspection during regular business hours.
10. The filing of an application for the use or alteration of such systems is required. No system shall be placed in service until approval is received from the ~~Alcoholic Beverage Control~~ Division.
11. The use or alteration of such equipment without prior approval from the ~~Alcoholic Beverage Control~~ Division shall constitute good and sufficient cause for the suspension or revocation of the permit.

101 (Reserved)

Chapter 19- Permittees, Employees ~~And/Or~~ Agents Shall Not Be Visibly Intoxicated ~~Or~~ Under ~~The~~ Influence ~~Of~~ Any Alcoholic Beverage, Beer ~~Or~~ Light Wine ~~On~~ Permitted Premises; No Consumption ~~For~~ Package Retailers ~~On~~ Permitted Premises; Limited Consumption ~~For~~ On-Premise Permittees Under Specific Circumstances

100 Except as authorized under Title 35-~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 13 of the Mississippi Administrative Code, no package retailer permittee, ~~nor~~ employee or agent ~~thereof of the permittee~~, will be permitted on the premises of the permitted place of business,~~as set forth in pursuant~~ to Miss. Code Ann. Section 67-1-51~~of the Mississippi Code of 1972~~, while consuming or while under the influence of an alcoholic beverage, beer, or light wine.

101 No on-premise ~~retailer~~ permittee, nor employee or agent thereof, will be permitted on the premises of the permitted place of business,~~as set forth in pursuant to Miss. Code Ann.~~ Section 67-1-51~~of the Mississippi Code of 1972~~, while intoxicated or visibly under the influence of an alcoholic beverage, beer or light wine. In addition, no on-premises permittee, nor employee or agent thereof who is on duty, will be permitted on the premises of the permitted place of business,~~as set forth in pursuant to Miss. Code Ann.~~ Section 67-1-51~~of the Mississippi Code of 1972~~, while consuming an alcoholic beverage, beer or light wine. On duty for purposes of this regulation shall mean visibly working or the absence of another approved manager who is visibly working and exercising control over the operation of the permitted place of business. Intoxicated for purposes of this regulation shall mean above the legal limit which is established by the Implied Consent Law found in Miss. Code Ann. Section 63-11-1 et seq.

102 The ~~Department Commission~~ may revoke or suspend the license of any package or on-premise ~~retailer~~ permittee for the violation of the provisions of this ~~Regulation~~chapter. The failure of any permittee, or employee or agent thereof, to submit to an intoxilyzer-~~or field sobriety~~ test after being charged with being intoxicated, and having been requested to do so by agents of the ~~Alcoholic Beverage Control~~ Division or any other duly authorized law enforcement official of the State of Mississippi, will be deemed prima facie proof that the permittee, or his agent or employee, was intoxicated.

103 (Reserved)

Chapter 20 -Sales ~~Of~~ Alcoholic Beverages ~~By~~ Approved Package Retailers to Other Retailers

100 Pursuant to all Federal requirements and Miss. Code Ann. Section § 67-1-41, permittees may purchase alcoholic beverages from a package retailer holding applicable Federal wholesale permits and who have been approved by the ~~Department Commission~~ to make wholesale sales of alcoholic beverages. In order to buy at wholesale from a package

retailer, an on premise retailer must present a permit identification card, which will be issued by the ~~Alcoholic Beverage Control~~ Division.

- 101 Any qualified package retailer may apply with the ~~Department~~ Commission for approval to engage in wholesale transactions with permittees. The permittee must meet all federal permit requirements and must maintain all state permit qualifications as set forth in Miss. Code Ann. Section 67-1-57 (1972) in order to qualify for approval by the ~~Department~~ Commission. The ~~Commission~~ package retailer's authorization to make wholesale sales may be suspended or revoked a package retailer's authorization to make wholesale sales for any violation of the Local Option ~~Alcoholic Beverage Control~~ Laws, or the R rules and Regulations. Upon approval by the Commission to make wholesale sales, the package retailer will be required to purchase an imprinting device as prescribed by the ABC which will be used in making wholesale sales to on premise permittees.
- 102 Each package retailer authorized to sell at wholesale shall use invoices provided by the ~~Alcoholic Beverage Control~~ Division ABC for sales to other permittees and shall maintain copies of said invoices for a period of three years. Each sales invoice must reflect all requested information at the time of delivery to the purchaser.
- 103 Purchases made from authorized package retailers must be ~~COMPLETED-completed~~ between the hours of 10:00 a.m. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. New permit holders must ~~No permittee make their initial order of alcoholic beverages with the Alcoholic Beverage Control before making a purchase from an approved wholesaler, may obtain his initial purchases of alcoholic beverages from an authorized package retailer.~~
- 104 An authorized wholesale package retailer may deliver product to permittees between the hours of 10:00 a.m. and 10:00 p.m., Monday through Saturday, provided such sales are not otherwise prohibited. Product must be delivered in a concealed cargo area of a vehicle or sufficiently covered so as to not be visible by the public.
- 105 Upon completion of the wholesale transaction or upon delivery of product to the purchaser, the seller must provide a copy of the sales invoice to the purchaser, and the invoice ~~MUST-must~~ remain with ~~said-the~~ seller or purchaser while transporting the purchased beverages to the purchaser's permitted location. The purchaser's copy of the sales invoice shall be maintained by the purchaser at his place of business for a period of three (3) years and, upon request, must be immediately provided to the ~~ABC~~ Division or other law enforcement agency requesting same.
- 106 A package retailer authorized to make said wholesale sales shall forward a copy of the on premise sales invoices for a given month to the ~~Alcoholic Beverage Control~~ Division. This information must be postmarked or hand delivered by the 20th day of the month following the sale. Sales invoices reflecting wholesale sales made to other package retailers shall not be forwarded to the ~~Alcoholic Beverage Control~~ Division. The seller shall maintain a copy of all sales transactions (on premises and package retailers) for a

period of ~~three (3)~~ years. Upon request of the ~~Division ABC~~ or other law enforcement agency, the retailer shall immediately produce said sales invoice to the requesting agency.

107 All purchases made by on premise permittees under this regulation shall be included in the calculation of the additional privilege fee ~~provided by~~ levied pursuant to Miss. Code Ann. ~~Section~~ §27-71-5. For purposes of calculating the additional privilege fee, the price shall not be less than the price of the alcoholic beverages as listed in the ~~ABC's~~ Division's price book in effect at the time of the sale.

108 Transaction reports submitted to the ~~Alcoholic Beverage Control~~ Division shall be in a standard reporting format unless prior approval for business generated forms is given. Permittees that hold a wholesale permit and make no sales during the preceding period must file a report indicating no sales for that period. ~~(Reserved)~~

~~109~~ ~~(Reserved)~~

Chapter 21 Governmental Affairs Representatives

100 A holder of a manufacturer's or wholesaler's permit may contract for the service of a representative in the area of governmental affairs on a part-time basis with a holder of an on premises retailer's permit.

101 Notice must be provided to the ~~Alcoholic Beverage Control~~ Division by providing ~~the ABC with~~ a copy of the employment contract entered into by the manufacturer or wholesaler and the representative. The contract shall include a description of services to be rendered by the governmental affairs representative, and shall include the salary to be paid as well as the duration of the employment.

102 The representative shall register with the Office of the Secretary of State, and shall provide the ~~ABC~~ Division with proof of such registration by providing certified copies of all information submitted to the Secretary of State.

103 One (1) year from the date of entry into the contract for employment as a governmental affairs representative, the representative shall submit an annual report to the ~~ABC~~ D Division, on forms provided by the ABC using required forms.

104 (Reserved)

Chapter 22 ~~Exchanges, Credits~~ And Refunds

100 Permittees holding package retailer's permits may allow a customer to return ~~no more than five (5)~~ bottles of package liquor for exchange, ~~credit~~ or refund as long as the liquor was, in fact, purchased from the permittee's business, and as long as a receipt reflecting that the liquor was sold to the patron by the permittee is presented by the patron.

~~101~~ ~~(Deleted)In the event that a patron should desire to return in excess of five (5) bottles of liquor for refund, credit or exchange, the permittee shall notify the Enforcement Section of the Alcoholic Beverage Control Division for its approval of said transaction.~~

~~1021~~ ~~Any A permittee may not issue a refunds, credits or allow an exchanges made by a permittee for liquor not purchased from him will result in a charge being filed against the permittee for violation of Miss. Code Ann. § 67-1-41, (1972); any other source.~~

~~1032~~ (Reserved)

Chapter 23 -Sale ~~O~~of Soft Drinks, Ice, Juices, Mixers, ~~A~~and Other Items By Package Retailers

100 Package retailers may sell wine glasses, corkscrews, ice, soft drinks, juices, mixers, and other non-alcoholic beverages commonly used to mix with alcoholic beverages, for consumption off the premises.

101 Sales of ice must be limited to commercially bagged ice in original sealed and unopened bags containing five (5) or more pounds.

102 Soft drinks for purposes of this regulation are defined by Miss~~issippi~~ Code Ann. Section § 27-65-3 (1)(1972). Soft drinks include original commercially sealed and unopened containers; ~~therefore, f~~ountain drinks are not to be included considered soft drinks under this regulation.

103 Juices shall include fresh, frozen, or concentrated non-alcoholic beverages extracted from fruits and vegetables of all types packaged in original commercially sealed and unopened containers.

104 Mixers are non-alcoholic beverages in a liquid form commonly used to dilute or enhance an alcoholic drink or cocktail, packaged in original commercially sealed and unopened containers. ~~Examples include, but not limited to, water, tonic water, ginger ale, club soda, seltzer, syrups, non-dairy creams, Worcestershire sauces, hot sauces, "Mr. & Mrs. T's" mixers, "Pat O'Brien's" mixers, "Bacardi Mixers", etc.~~ All dry mixes are prohibited and shall not be sold by package retailers.

105 Wine glasses shall include glassware that is manufactured and marketed primarily for wine consumption as well as plastic stemware commonly used in drinking wine. Other types of plastic containers, styrofoam, and paper cups of all other types are not included and may not be sold or used for consumption on the premises. In addition, industry supplied consumer items may not be offered for sale by package retailers.

106 Sale of any items listed above shall in no way be used to promote, persuade, or influence the sale of alcoholic beverages. Therefore, the permittee can-not give as a gift or reduce the price of these items when the same is conditioned on the purchase of an alcoholic beverage.

107 Any questions regarding the permissibility of products intended for sale by package retailers governed by this regulation should be submitted, in writing, to the [Chief of Enforcement](#), ~~of the Director of the Alcoholic Beverage Control Division.~~

108 (Reserved)

Chapter 24 -Check Cashing

100 The holder of a package retailer's permit is authorized to cash checks for their face value without a charging fee, or to cash checks from time to time as an incident to a retail sale or independently of a retail sale for a fee, not exceeding [the fees provided by Miss. Code Ann. Section 75-67-501.](#) ~~three percent (3%) of the face amount of the check or Ten Dollars (\$10.00), whichever is greater, in accordance with Miss. Code Ann. § 75-67-501~~ ~~(e)~~. A violation of Miss. Code Ann. [Section](#) ~~§~~ 75-67-501 et seq. by a package retailer shall also constitute a violation of this regulation.

101 (Reserved)

Subpart ~~23~~ -Licensing

Chapter 01 -Bonds

100 ~~The Department may require any person engaged in the business of manufacturing or retailing alcoholic beverages to enter into a bond under Miss. Code Ann. Section 27-71-21.~~ The amount of bond ~~that may be~~ required of the holder of any retailer's permit under [Miss. Code Ann. Section 27-71-21, Mississippi Code of 1972, Recompiled,](#) shall be ~~Five Thousand Dollars (\$5,000.00).~~ This bond shall be in such form as required by the ~~Alcoholic Beverage Control~~ Division.

101 New, revised, or different bonds may be required by the ~~Alcoholic Beverage Control~~ Division at any time for any carrier, manufacturer and/or distributor, and any holder of a retailer's bond.

102 If a retailer [who has been required to obtain a bond by the Department](#) receives notice that his bond is to be cancelled during the permit year, the permittee must immediately [provide notification by the ABC](#) in writing that the bond is being cancelled and must provide copies of any documentation received by the permittee from the bonding company. Furthermore, the permittee shall obtain another bond or deposit the equivalent amount of the bond required in cash or securities with the State Treasurer pursuant to Miss. Code Ann. [Section](#) ~~§~~ [27-71-21 \(1972\),](#) prior to the cancellation date of the original bond.

103 Failure to submit a valid bond [when required to do so by the Department](#) by ~~said the~~ cancellation date will result in automatic suspension of sales until a valid bond is

received ~~by the ABC~~. In addition, ~~the Department~~Commission may take punitive action against the permittee for failure to timely submit a bond.

104 (Reserved)

Chapter 02 Permit Limit

100 No person, either individually or as a member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall own or control any interest whatsoever in more than one package retailer's permit. ~~No person nor shall he~~ act as a guarantor for ~~or~~ loan money to ~~or~~ receive any ~~remuneration compensation or payment~~ from more than one package retailer's permit. ~~and Furthermore, neither the no spouse, or any relative of,~~ nor any other person living in the same household as ~~any~~ person owning any interest in a package retailer's permit ~~as set forth herein~~ shall own any interest whatsoever in any other package retailer's permit.

101 No person, either individually or as member of a firm, partnership or association, or as a stockholder, officer or director in a corporation, shall be permitted to own an interest in more than one package ~~retailer's permit store~~ while owning any interest ~~whatsoever~~ in an on-premises retailer's permit. This prohibition shall also apply to the spouse ~~or~~ relatives ~~of,~~ or ~~any~~ other persons living in the same household as the person who owns interest in an on-premise retailer's permit. This ~~regulation chapter is promulgated to specifically~~ allows multiple ownership of on-premises retailer's permits and ~~to provide that allows~~ ~~any~~ person's holding ~~an~~ on-premises retailer's permits ~~may to~~ simultaneously own an interest in a ~~single~~ package retailer's permit.

102 However, this ~~regulation chapter~~ does not authorize a person to purchase or otherwise transfer alcoholic beverages from one permitted place of business to another. Any violation of the provisions of Miss. Code. ~~Ann.~~ Sections 67-1-41, 67-1-43 and 27-75-5; ~~Mississippi Code of 1972,~~ will be grounds for revocation of the permit or permits issued ~~to the violator.~~

103 This ~~regulation chapter~~ shall not be construed to deny renewal of any permit which may have been issued prior to the effective date of this regulation, nor shall this regulation be construed to prohibit rendering professional services for more than one package retailer.

104 (Reserved)

Chapter 03 Filing Fee

100 The \$25.00 filing fee is to ~~recompense-reimburse~~ the ~~Alcoholic Beverage Control~~ Division for ~~the costs associated with~~ investigating the qualifications of an applicant for a permit, and is forfeited whether the ~~Department~~Commission grants the permit applied for or not.

101 (Reserved)

Chapter 04 -Permittee Must Maintain Qualifications ~~A~~and Pay Taxes

100 The failure of a permittee to maintain the qualifications necessary for the issuance of a permit pursuant to Miss. Code Ann. under Section 67-1-57, ~~Mississippi Code of 1972, Recompiled,~~ including the failure to pay any taxes due the State, may result in the revocation or suspension of a retailer's alcoholic beverage permit.

101 (Reserved)

Chapter 05 -Permit Transfer

100 No permit or any beneficial interest in ~~same-a permit~~ shall be transferred by any permittee to any other person or any other place except with the written consent of the ~~Department, Commission,~~ upon application forms furnished by the ~~Department, Commission,~~ for such purposes.

101 Notice of the intended transfer of ~~such~~ location or beneficial interest must be published for two consecutive issues in a newspaper having general circulation in the city or town in which the transfer applicant's place of business is located. In instances where the business is not located within a city or town, publication should occur in a newspaper of general circulation in the county where the business is located. Proof of publication must be filed with the application to transfer ~~such~~ location or interest.

102 This ~~regulation chapter~~ shall not be construed to require publication of a mere change in trade name or the officers of a corporation where there is no change in the ownership. However, any such contemplated changes must be submitted to the ~~Department, Commission~~ for prior approval, ~~prior to making the same.~~

103 An applicant for transfer of ownership of a permit for which there exists an exemption from distance requirements as provided for in Miss. Code Ann. ~~Section~~ 67-1-51 (3) ~~(1972)~~ must submit an updated waiver from ~~any the~~ funeral home or church.

104 All original applicants for permits and/or proposed recipients of beneficial interest in such permits must be not less than 21 years of age, ~~and may not have not been convicted of a felony in any state or federal court,~~ ~~and that the~~ An individual who is an applicant for a package retailer's permit, ~~if an individual, is~~ must be a resident of the State of Mississippi. If the applicant is a partnership, each member of the partnership must be a resident of the state. If the applicant is a corporation ~~or LLC,~~ the designated manager ~~of the corporation~~ must be a resident of the state.

105 (Reserved)

Chapter 06 -Death ~~O~~or Disability ~~O~~of ~~A~~a Permittee

- 100 In case of death or physical or mental disability of any permittee, the estate or guardianship of the permittee shall be allowed to operate the permitted business for a period not exceeding sixty (60) days after ~~such the death or~~ disability. During the ~~aforsaid~~ 60-day period, any member of the permittee's immediate family may make application to the ~~Commission~~ Department ~~in the usual manner that for~~ the unexpired portion of the permit of the decedent to be assigned to him, ~~but the payment of an additional permit fee shall not be required.~~
- 101 If such application is approved ~~by the Commission~~, the applicant shall be granted the right, without the payment of an additional permit fee, to operate the permitted place of business for the unexpired portion of the time of the original permit.
- 102 It shall also be permissible for the Executor of the Estate or guardian of the disabled permittee to sell the permittee's alcoholic beverage inventory to another permitted place of business, with the written approval ~~of the Director of the Alcoholic Beverage Control Division of the Division~~, following the procedure outlined in Title 35, ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~34~~, Chapter 1 of the Mississippi Administrative Code.
- 103 If the application is denied, the inventory of alcoholic beverages, with prior approval from the Division, may be sold to another permitted retailer. In the event that the inventory cannot be sold to another retailer, the Division may take possession of the remaining unopened inventory and refund the estate at the current wholesale price, less a charge for handling and transportation. The items returned will then be placed in the Division's inventory. ~~Alcoholic Beverage Control Division of the State Tax Commission shall pick up and refund to the estate of the heirs at law of the decedent or the disabled person the value of all unopened alcoholic beverages in the place of business at such time, at the then current wholesale price, less a charge of five dollars (\$5.00) per case for handling and transportation back to the warehouse in Gluckstadt, Mississippi, where the items returned will be placed in ABC inventory.~~
- 104 However, no credit will be given for special orders, novelty items contained in dual packaged products, ceramic decanters, holiday packages or ~~stale, damaged or~~ de-listed items. Such merchandise shall not be redeemed ~~by the State of Mississippi~~ under any circumstances.
- 105 (Reserved)

Chapter 07 -Temporary ~~A~~and Qualified Resort Areas

- 100 Temporary Resort Area:
1. The ~~Department~~Commission is authorized to approve a certain area or locality outside the limits of an incorporated municipality as a temporary resort area if the particular location is in the process of being developed as a qualified resort area. Approval of this type of resort designation is contingent upon the applicant's submitting the following:

- a. A resolution from the Board of Supervisors of the county where such proposed area is located. The resolution must specifically state that the Board is of the opinion that the area in question is in the process of being developed as a resort area. In addition, the resolution must set forth the basis for the Board's conclusion.
 - b. A map clearly marked to indicate the specific area under ~~—~~consideration.
 - c. A list of steps taken or to be taken in developing the area as a ~~—~~qualified resort area.
 - d. Endorsements by civic clubs located in the area under consideration.
 - e. Assurance from the Sheriff of the area that he will enforce the Local Option ~~Alcoholic Beverage Control~~ Laws of the State of Mississippi, and the rules and regulations of the ~~Alcoholic Beverage Control~~ Division, ~~in such area.~~
 - f. Proof of publication of legal notice and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an application for classification as a temporary resort area is being filed, the contents of the application, and a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.
2. The temporary resort area designation is for a term of one year. Prior to the expiration of the year period, the applicant must establish and prove that the proposed area meets all of the statutory qualifications for a qualified resort area.

101 Qualified Resort Area:

1. A qualified resort area must be clearly established, understood and agreed upon by the resort area community. A community may be considered for a qualified resort area classification by the Department~~State Tax Commission~~ by submitting an ~~proper~~ application.
2. The application must be submitted by the President of the Board of ~~—~~Supervisors or the Mayor or Mayors of the municipality or municipalities affected. In the event the President of the Board of Supervisors or the Mayor refuses to submit such application, the same may be submitted by not less than 100 adult citizens of the community to be affected, and shall in each instance include the following items:
 - a. A map clearly marked to indicate the specific area under ~~—~~consideration.
 - b. Reasons why the particular area should be classified as a qualified ~~—~~resort area.
 - c. Endorsements by civic clubs located in the area under consideration.
 - d. Assurance from the Sheriff or Sheriffs of the area that he will enforce the Local Option ~~Alcoholic Beverage Control~~ Laws of the State of Mississippi, and the rules and regulations of the ~~Alcoholic Beverage Control~~ Division, ~~in such area.~~ If the area is located within a municipality, such assurance shall also be given by the Chief of Police of such municipality or municipalities.
 - e. A certified copy of the order or orders as entered on the minute books of the governing body.
 - f. Proof of publication of legal notices and all public opinion responses. Legal notice must be printed once each week for two consecutive weeks in a newspaper having general circulation in the area. The notice must state that an

application for classification as a qualified resort area is being filed, the contents of the application, ~~and~~ a request for public opinion from residents in the area under consideration, and that approval will permit the operation of open bars in the area.

3. Adjacent or affected areas may either join in or file objections to the application with the Department Commission.

102 (Reserved)

Chapter 08 -Common Carriers Reporting

100 Common carriers, in lieu of purchasing alcoholic beverages for resale from the ~~Alcoholic Beverage Control~~ Division, must file a Common Carrier Reporting Form, ~~(ABCD-4001)~~. These common carrier reporting forms and the total amount due must be filed by the 20th of the month for the preceding month. The report will be audited as required by the ~~Alcoholic Beverage Control~~ Division.

101 A common carrier must maintain detailed records that reflect where alcoholic beverages were purchased, the purchase price, the date of the purchase and the taxes paid if the alcoholic beverages were purchased from a source (i.e. wholesaler or ship chandler) other than the Department Commission. The records and inventory of alcoholic beverages shall be open to inspection by ~~the Director of the B-C Division~~ or any of its duly authorized agents at any time.

102 If common carriers purchase the alcoholic beverages they sell while traveling through the State of Mississippi from the ~~Alcoholic Beverage Control~~ Division, the Common Carrier Reporting Form ~~ABCD-4001~~ does not have to be filed.

103 Alcoholic beverages can only be served and/or consumed while inside the permitted common carrier. ~~While stopped in a dry county, e~~Common carriers are prohibited from serving alcoholic beverages or allowing the consumption of alcoholic beverages while stopped in a dry county.

104 In the event that a common carrier has multiple permits for a business establishment, the common carrier may store alcoholic beverages in a common storage facility as described and regulated in Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 3 of the Mississippi Administrative Code, if and only if the alcoholic beverages were purchased directly from the Department Commission.

105 (Reserved)

Chapter 09- Qualifications ~~O~~f Employees ~~A~~nd Managers

100 The permittee shall be responsible, at all times, for acts of ~~his~~ manager(s) and/or employee(s) which are in violation of the Local Option Alcoholic Beverage Control

~~L~~aws, ~~o~~r ~~R~~ules and ~~R~~egulations, and which take place at the permitted establishment, ~~regardless of whether the permittee is present, at such times or not.~~

101 ~~It is further provided that the~~ Any permittee shall not knowingly employ any individual who has ~~either~~ been convicted of a felony within the past three years immediately preceding ~~an employment decision~~ or who has been convicted and incarcerated for any crime within a period of one year immediately preceding ~~an employment decision~~. Furthermore, a permittee shall not employ any person under the age of eighteen (18) to wait on tables, take orders for, or deliver orders of alcoholic beverages and may not employ any person under the age of twenty-one (21) to tend bar or act in the capacity of bartender.

102 Permittees are required to make an inquiry into whether an employee meets the above criteria and maintain records of this information.

103 Prior to a proposed manager assuming managerial responsibility, the permittee must obtain approval ~~of the manager~~ from the ~~Alcoholic Beverage Control~~ Division. To obtain approval of the proposed manager, the permittee must file the following forms:

4. Application for change in manager's or assistant manager's name on alcoholic beverage license;
~~name on alcoholic beverage license;~~
5. Personal Record Form, ~~ABCD-1001~~;
6. Two fingerprint cards;
4. The applicable processing fee, in certified funds, for submission of fingerprints to the
~~FBI.~~
~~submission of fingerprints to the FBI.~~

Formatted: Indent: Left: 0.5", Hanging: 0.25"

104 In addition, each proposed manager ~~applicant~~ must possess all qualifications required of a permittee. Manager identification cards may be suspended or revoked for valid cause.

105 The ~~Department~~Commission may impose fines, or may suspend or revoke the permit(s) of any permittee in violation of this ~~regulation~~chapter.

106 (Reserved)

Chapter 10- Management Agreement

100 The permittee in all cases must ~~carry on~~operate the business for himself and have direct control over its entire operation.

101 No management agreement for a permitted place of business shall be effective until the ~~Department~~Commission has approved the same.

102 The management agreement must provide that the permittee will be absolutely responsible for any and all violations of the ~~Local Option Mississippi Alcoholic Beverage Control~~
~~L~~aws, ~~o~~r ~~R~~ules and ~~R~~egulations, occurring on or about the licensed premises.

103 Where the law authorizes ~~that~~ an on-premises retailer's permit to be issued to a restaurant or hotel, the operation of the lounge located on ~~their~~ its premises shall be in conjunction with the operation of the restaurant. Therefore, the operation of the restaurant and lounge shall be considered one and the same and must be under the direction of one manager.

104 (Reserved)

Chapter 11 Application Requirement

100 ~~The following information will be required by the alcoholic beverage control Division of the Mississippi State Tax Commission prior to, and at any time after, the issuance of a retailer permit:~~

12. A properly completed application for Retailer's Permit ~~(Form 1000, or 1010, or 1008).~~

13. Proof of Publication Affidavit on Legal Notice ~~as set forth by~~ pursuant to Miss. Code Ann. Section 67-2-53(2) to include two (2) tear sheets from the newspaper in which said ~~Legal Notice~~ the Notice was published.

14. Proof of compliance with the Federal statutes and regulations applicable to the permit being applied for which will include a copy of the receipt for purchase of a Federal Use Stamp or a copy of the check in payment thereof, ~~together with a copy of the completed Federal Form 11 (Application for Federal Use Stamp).~~

15. A copy of the Applicant's deed or executed lease agreement on the premises where the business is to operate. If the permittee receives notice that the lease is to be cancelled, or if the permittee transfers the deed; during the permit year, the permittee must immediately notify the ~~Alcoholic Beverage Control~~ Division in writing. The permittee shall obtain an executed renewal lease prior to the expiration date of the existing lease if the lease is to expire during the permit year. If the permittee previously submitted a deed or multi-year lease on the permitted premises, prior to any permit renewal, ~~of~~ the permittee must submit an affidavit attesting that there ~~are~~ will be no changes in said deed or lease. Failure to submit a valid renewal lease, deed or affidavit will result in the automatic suspension of sales until a valid lease is received by the ~~Alcoholic Beverage Control~~ Division. Further, the ~~Department~~ Commission may revoke the permit for failure to timely submit an executed renewal lease, deed or affidavit. A valid copy of any deed or lease may be required at any time after issuance of the original permit.

16. A copy of the floor plan of the building where the prospective permittee proposes to operate the business under the permit ~~being applied for.~~

~~17. The original of the surety bond (Refer to required pursuant to Miss. Code Ann. Section 27-71-21 and/or Title 35 of the Mississippi Administrative Code, Part II, Subpart 2, Chapter 1 of the Mississippi Administrative Code).~~

~~18.~~ 17. A complete, current and accurate summary financial statement(s) ~~on Form 2007~~ as follows:

- d. Sole Ownership Business – on the owner.
- e. Partnership – on the partnership and each partner thereof.
- f. Corporation for profit (Non Profit excepted) – on the corporation and;

- i. On-Premises Retailer – each officer who owns ~~five-ten~~ percent (105%) or more of the stock of such corporation and all major stockholders.
- ii. All other permit classes ~~financial statements are required for each officer and for all~~ major stockholders.

d. Limited Liability Company – on the LLC and each member thereof.

~~de.~~ In addition to the foregoing, if any applicant for a permit is doing business with out-of-state bank(s), letter(s) from said bank(s) verifying the current status of any and all loans, checking and savings accounts, certificates of deposit and a general recommendation from said bank(s) must be included therein.

~~19-18.~~ A statement of ownership (~~Form 1011~~).

~~20-19.~~ Personal records and fingerprint forms (~~Form 1001~~).

~~21-20.~~ Sales tax registration ~~including the Mississippi Sales Tax Number~~

~~22-21.~~ Food Service Permit, ~~Form No. 307 (Form 1000)~~.

~~23-22.~~ A copy of a waiver of the distance requirements ~~for~~ from a church or funeral home if applicable. Where the transfer of a permit results in a change in use (i.e. from an On-Premises Retailers Permit to a Package Retailer's Permit or vice versa) a new waiver will be required. Bed and breakfast inns listed on the National Register of Historic Places are exempt from all distance requirements.

~~101 NOTE: Bed and breakfast inns listed on the National Register of Historic Places are exempt from all distance requirements.~~

~~1012~~ The Alcoholic Beverage Control Division ~~of the Mississippi State Tax Commission~~ may, in its discretion, require any applicant for a retailer permit to submit any and all other information and/or reports which it may deem necessary and expedient in the consideration of an existing permit or in the processing of any original permit.

~~103 NOTE: The forms required to be completed in the processing of application for any retailer permit or for renewal of any retailer permit can be obtained from the Alcoholic Beverage Control Division of the Department of Revenue Mississippi State Tax Commission.~~

~~1024~~ (Reserved)

Chapter 12- Hotels

100 A hotel, as that term is defined by Miss. Code Ann. Section ~~§~~ 67-1-5(~~L~~), (~~Amended May 1, 1987~~), possessing fifty (50) or more sleeping rooms and lying within a municipality having a population exceeding twenty-five thousand (25,000) shall not be required to have a dining room, or otherwise serve food, as a requirement to qualify for an on-premise alcoholic beverage permit.

101 (Reserved)

Chapter 13 -Temporary Alcoholic Beverage Permits

Formatted: Indent: Left: 0", First line: 0.75"

100 Temporary retailer's permits may be issued by the Department. These permits allow the purchase and resale of alcoholic beverages and native wines during legal hours and only on the premises described in the permit.

101 An alcoholic beverage permit may not be issued or transferred while there is pending in the Courts, or before the Department, any charge of violating the Local Option laws or rules and regulations, or the laws against gambling in the State, pursuant to Miss. Code Ann. Section 67-1-67

Formatted: Indent: Left: 0", Hanging: 0.5"

102 All permit fees, filing fees, and additional privilege fees are to be paid by the temporary permittee, in advance, with certified funds.

Formatted: Indent: Left: 0", Hanging: 0.5"

103 (Reserved)

~~400200~~ A Class ~~I-1~~ one-day ~~T~~temporary ~~Alcoholic Beverage~~ permit, authorizing the sale of alcoholic beverages by the drink, may be issued ~~by the Department~~ ~~Commission~~ to a bona fide nonprofit civic or charitable organization. ~~Class I one-day Temporary Alcoholic Beverage Permits~~ The permit shall ~~permit allow~~ the sale and consumption only at the authorized location during the times permitted for other on-premises retailer locations in the city or county where the permit is issued pursuant to Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 4 ~~of the Mississippi Administrative Code~~.

~~42~~01 Application forms provided by the ABC for Class ~~I-1~~ Temporary Alcoholic Beverage Permits shall be completed by the applicant, under oath, and furnished to the ~~Department~~ ~~Commission~~, setting forth that the applicant complies with the requirements of Miss. Code Ann. ~~Sections §§~~ 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The ~~Department~~ ~~Commission~~ may deny an application for failure to timely complete the application or, upon review of ~~said the~~ application, may deny ~~said the~~ application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~41~~, Chapter ~~43~~ ~~of the Mississippi Administrative Code~~ and Miss. Code Ann. ~~Section§~~ 67-1-39.

~~42~~02 All alcoholic beverages purchased for resale by a temporary permittee shall be purchased from a package retailer in the county in which the permit is located. The applicant shall set forth on his application the package retailer(s) from which said purchase(s) will be made, including the quantity to be purchased. All applicable sales and use taxes must be paid by the Class ~~I-1~~ Temporary Alcoholic Beverage Permit holder. Any bottled alcoholic beverages remaining in the possession of the Class ~~I-1~~ Temporary Alcoholic Beverage Permit holder may, with approval of the package retailer, be returned to ~~said the~~ package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.

~~4203~~ Any package retailer or Class ~~I-1~~ Temporary Alcoholic Beverage Permit holder violating the terms of this ~~regulation chapter~~ may, at the discretion of the ~~Department~~Commission, have his permit suspended or revoked, or may be denied a future permit by the ~~Department~~Commission.

~~404~~ ~~All permit fees and filing fees are to be paid by the temporary permittee, in advance, with certified funds.~~

~~42054~~ A Class ~~H-2~~ Temporary Alcoholic Beverage Permit may be issued only in conjunction with a transfer application submitted by a prospective permittee seeking an on-premises retailer or package retailer permit currently in effect at the particular location for which the transfer is sought. ~~No Class II Temporary~~

~~205~~ (Reserved)

~~406~~ ~~An Alcoholic Beverage Permit may not be issued or transferred while there is pending in the Courts, or before the Department~~Commission, ~~any charge of keeping a disorderly house, or of violating the Alcoholic Beverage Control Laws, or Rules and Regulations, or the laws against gambling in the State, pursuant to Miss. Code Ann. Section~~§ 67-1-67.

~~300407~~ Application forms for Class ~~H-2~~ Temporary Alcoholic Beverage Permits provided by the ~~ABC~~ shall be completed by the applicant, under oath, and furnished to the ~~Department~~Commission, setting forth that the applicant complies with Miss. Code Ann. ~~Sections~~§§ 67-1-11, 67-1-37, 67-1-51 (2) and (3), 67-1-57, and 67-1-59. The applicant shall have fourteen (14) days from the issuance of the temporary permit to submit all documents and other materials required by Title 35 ~~of the Mississippi Administrative Code, Part II, Subpart 23, Chapter 11 of the Mississippi Administrative Code.~~ Upon the failure of the applicant to submit these matters within ~~said required~~ time, the temporary permit will lapse and liquor sales will be prohibited. The ~~Department~~Commission may deny an application for failure to timely complete ~~said the~~ application or, upon review of ~~said the~~ application, may deny ~~said the~~ application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a permit, or an appeal of such denial, shall be conducted in accordance with Title 35 ~~of the Mississippi Administrative Code, Part II, Subpart 41, Chapter 4-3 of the Mississippi Administrative Code;~~ and Miss. Code Ann. ~~§ Section~~67-1-39.

~~30108~~ Upon approval of a Class ~~H-2~~ Temporary Alcoholic Beverage Permit, the temporary permittee must purchase his alcoholic beverages directly from the ~~Department~~Commission and/or, with the ~~Department's~~Commission's prior approval, purchase the remaining inventory of the previous permittee. ~~Alcoholic beverage purchases from the Division are to be paid by the temporary permittee, in advance, with certified funds.~~ Any Class ~~H-2~~ temporary permittee shall pay additional privilege fees as set forth in Miss. Code Ann. ~~Section~~§ 27-71-5(m). Any accumulated balances of purchases and additional privilege fees of the original on-premises retailer permittee shall be transferred to the new permanent transferee.

~~302409~~ A Class ~~H-2~~ Temporary Alcoholic Beverage Permit issued to temporary permittee shall run for a period of seventy (70) days unless applicant fails to meet the fourteen (14) day requirement for complying with Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~23~~, Chapter 11 ~~of the Mississippi Administrative Code~~. An application for a Class ~~H-2~~ Temporary Alcoholic Beverage Permit shall be filed at least seventy (70) days prior to the expiration of the original permit sought to be transferred. In the event less than seventy (70) days remains on the original permit, then a renewal application, signed by the original owner, must accompany the Class ~~H2~~ Temporary Alcoholic Beverage Permit application.

~~303440~~ Upon issuance of a Class ~~H-2~~ Temporary Alcoholic Beverage Permit, an "Administrative Hold" shall be placed on the original permit. The time remaining on the original permit shall continue to run, but no alcoholic beverages may be purchased from the ~~ABC Division~~ on the original permit. Furthermore, alcoholic beverages can only be sold and consumed pursuant to the Class ~~H2~~ Temporary Alcoholic Beverage Permit and not by authority of the original permit as long as the "Administrative Hold" is in force. An "Administrative Hold" may be removed ~~by the Director or the Chief of Enforcement of the Alcoholic Beverage Control Division/ABC~~ following the ~~Department's/Commission's~~ approval of a transfer or following proof that the original owner has retained the particular location and the Class ~~H2~~ temporary permittee no longer desires the permit.

~~304444~~ The hours for sale and consumption of alcoholic beverages for Class ~~H2~~ Temporary Alcoholic Beverage permittees shall be the hours authorized for similar permittees located in the city or county where the permit to be transferred is located pursuant to Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter ~~9-4~~ ~~of the Mississippi Administrative Code~~, or as set by state law.

~~305~~ (Reserved)

~~412~~ ~~Permit fees, filing fees, additional privilege fees and alcoholic beverage purchases from the ABC are to be paid by the temporary permittee, in advance, with certified funds.~~

~~413400~~ ~~(Reserved)~~ A Class 3 temporary one-day permit may be issued to qualified retail establishments and authorizes the complimentary service of wine only, including native wine, to patrons attending an open house or promotional event, for consumption only on the premises described on the temporary permit. This permit shall only allow consumption during the times permitted for other on-premise retailer locations in the city or county where the permit is issued pursuant to Title 35, Part II, Subpart 2, Chapter 4 of the Mississippi Administrative Code. No retailer may receive more than twelve (12) Class 3 temporary permits in a calendar year. A Class 3 temporary permit shall not be issued to a retail establishment that holds either a merchant permit issued under Miss. Code Ann. Section 67-1-51(I), or holds a permit issued under Miss. Code Ann. Chapter 3, Title 67 authorizing the sale of beer or light wine.

401 Application forms provided by the ABC for a Class 3 temporary permits shall be completed by the applicant, under oath, and furnished to the Department, setting forth that the applicant complies with the requirements of Miss. Code Ann. Sections 67-1-11, 67-1-37, 67-1-51 (2), and (3), 67-1-55, 67-1-57, excluding paragraph (e), and 67-1-59. The Department may deny an application for failure to timely complete the application or, upon review of the application, may deny the application based on a reasonable belief that the applicant does not meet the required qualifications. Any denial of a Temporary Alcoholic Beverage Permit, or an appeal from such denial, shall be conducted in accordance with Title 35, Part II, Subpart 1, Chapter 3 of the Mississippi Administrative Code and Miss. Code Ann. Section 67-1-39.

402 All alcoholic beverages purchased for resale by a Class 3 temporary permit holder shall be purchased from a package retailer in the county in which the permit is located. The applicant shall set forth on his application the package retailer(s) from which said purchase(s) will be made, including the quantity to be purchased. All applicable sales and use taxes must be paid by the Class 3 temporary permit holder. Any bottled alcoholic beverages remaining in the possession of the Class 3 temporary permit holder may, with approval of the package retailer, be returned to the package retailer from which they were purchased. In no event may damaged alcoholic beverages, or partials, be returned to a package retailer.

403 (Reserved)

Chapter 14 -Caterer's Permits

100 A caterer's permit authorizing the purchase and resale of alcoholic beverages by caterers of food may be issued by the ~~Department~~Commission upon application, if the applicant meets the qualifications as provided for by Miss. Code Ann. ~~Sections~~§§ 67-1-53, 67-1-55 and 67-1-57.

101 Caterers are subject to all rules and regulations which apply to on-premise retailers.

102 Caterers shall provide ~~the ABC with~~ notice of the location of the catered event 10 days prior to the event, ~~on forms supplied by the ABC~~. A copy of the ~~license permit~~ shall be prominently displayed on the premises of the catered event.

103 ~~The agents of the ABC Division of the Department of Revenue~~State Tax Commission Alcoholic Beverage Control Division agents shall be permitted to enter the catered premises for the purpose of inspecting the premises and carrying out any enforcement responsibilities necessary. Should the permittee, its agents, servants or employees interfere, impede or hinder ~~in any manner the ABC~~, ~~the~~ agents from carrying out their duties under the provisions of the law and regulations pertaining to the sale of alcoholic beverages, it shall be the duty of the ~~Department~~Commission ~~to~~impose a penalty amounting to either suspension or revocation of the caterer's permit.

- 104 Records are to be maintained by the caterer which clearly reflects the receipt of alcoholic beverages from the ~~Department~~Commission, as well as the sale of alcoholic beverages and all food sales. All records shall be kept and maintained separately from the records pertaining to any on-premises permitted place of business operated by the caterer. ~~The ABC shall be permitted to examine any All~~ books, papers, records or other data which pertain to purchases, costs and expenditures incurred by the permittee incident to the operation of the catering business shall be open to inspection by any duly authorized employee of the Department. Caterers must comply with all record keeping procedures as outlined in Title 35 of the Mississippi Administrative Code, Part II, Subpart ~~42~~, Chapter 6 of the Mississippi Administrative Code.
- 105 The ~~Department~~Commission may revoke or suspend the caterer's permit issued ~~by it~~ for any violation of the rules, regulations and statutes, as they pertain to alcoholic beverages, by the permittee or any agent, employee, associate, or representative ~~thereof of the permittee~~, or for violations committed by any guests or individuals present at the catered event.
- 106 (Reserved)

Chapter 15 -Alcohol Processing Permit

- 100 An alcohol processing permit may be issued with the approval of the ~~Department~~Commission to any person, firm, or corporation upon written application with and applicable filing fees to the ~~Alcoholic Beverage Control~~ Division, ~~of the Department of Revenue~~State Tax Commission. If ~~said the~~ applicant is a corporation, an officer of ~~such the corporation~~ must affix their signature upon the application. If ~~said the~~ applicant is a partnership, each partner must affix their signature upon the application. The processing permit is a non-retail permit and shall be issued and maintained only ~~upon a showing that on~~ the use of alcoholic beverages is for legitimate cooking, processing, or manufacturing purposes and that the applicant meets the qualifications, as provided for by Miss. Code Ann. Sections §§ 67-1-53, 67-1-55 and 67-1-57. Sales tax is not due on purchases of alcoholic beverages by those holding an alcohol processing permit. The permit holder will be required to obtain a sales and use tax direct pay permit in order to purchase such beverages exempt.
- 101 The permittee must indicate the estimated annual amounts of usage of alcoholic beverages. These amounts may be increased upon sworn affidavit of the permittee with the ~~Alcoholic Beverage Control~~ Division. It shall be a violation of these regulations for the permittee to use or possess more alcoholic beverages than set forth in the permit.
- 102 There shall be no minimum purchase amount required when acquiring alcoholic beverages; however, if the permittee wishes to purchase product from the ~~Alcoholic Beverage Control~~ Division ~~the~~ minimum purchasing limits ~~set forth by that agency~~ must be followed. All products used by the permittee must be purchased within the State of Mississippi and the permittee will be required to maintain on site storage of all alcoholic beverages. In addition, it shall be mandatory that inventory records be kept and

preserved by the permittee for a period of three (3) years ~~which and shall~~ include the itemized purchase invoices and tickets bearing the date of purchase and name of the seller of all alcoholic beverages. The ~~Alcoholic Beverage Control~~ Division reserves the right at any time to inspect all such inventory records as well as the permitted premises.

- 103 The ~~Department~~Commission may revoke or suspend the processors permit for violation of any of the ~~Alcoholic Beverage Control~~ Local Option ~~L~~laws or rules, and regulations, ~~or statutes,~~ by the permittee or any agent, employee, associate, or representative ~~thereof~~ the permittee.

104 (Reserved)

Subpart ~~34~~ Warehouse Operations

Chapter 1 Disposition ~~Of~~ Inventory When Permit ~~Is~~ Revoked, or Not Reissued, or When Counties Vote to Go Back Under Prohibition Laws

~~100 When the alcoholic beverage license permit of any permittee is revoked by the Department State Tax Commission, the Alcoholic Beverage Control Division of the State Tax Commission may shall at its discretion have the right to immediately take possession of any and all alcoholic beverages remaining in stock of the aforesaid permittee and a refund shall be made to the permittee at the then current wholesale price, thereof, less a charge of Five Dollars (\$5.00) per case for A charge for handling and transporting same back the product to the warehouse LDC warehouse in Gluckstadt, Mississippi will deducted from the refund., but a All license permit fees paid by such the permittee shall be forfeited. Such confiscated alcoholic beverages shall be placed in the Alcoholic Beverage Control Division inventory and sold in the regular course of business.~~

100 Inventory held by a permit holder must be disposed of when:

1. The permit expires and the permittee has made no application for renewal;
2. The Department has refused to reissue the permit;
3. The permit has been revoked by the Department;
4. There has been a death or physical or mental disability of the permit holder
5. The permit holder desires to discontinue the business prior to the expiration of the permit; or
6. The county or judicial district where the permit holder is located has voted to go back under the prohibition laws.

~~101~~14 The permittee shall be given a period of ~~ten (10) thirty (30) sixty (60)~~ days after the expiration or revocation of the permit within which to make a sale of the alcoholic beverages ~~then~~ on hand to another permittee, and if a purchaser is found ~~thereof~~, the permittee, ~~before making sale of his stock of goods,~~ shall comply strictly with the following procedures before making any sale of his stock of goods:

1. A written application request shall be submitted to the Director on forms to be furnished by the Alcoholic Beverage Control Division shall be submitted for

~~consideration by the Director,~~ along with a complete and detailed inventory of all merchandise on hand.

2. The ~~application request~~ shall be signed by the holder of the ~~license permit~~ who desires to sell the merchandise and by the permit holder who desires to purchase ~~said the~~ merchandise. No sale shall be made except to a retail establishment which has been duly licensed by the Alcoholic Beverage Control ~~Division of the State Tax Commission.~~
3. Sales or commitments to sell or purchase alcoholic beverages under the provisions of this regulation shall be made subject to the written approval of the Alcoholic Beverage Control Division.
4. If the prospective purchaser is an on-premise retailer permittee and the Director approves the purchase, ~~for purposes of pursuant to Miss. Code Ann. -Section 27-7-1-5, Mississippi Code of 1972,~~ the current wholesale value of the alcoholic beverages ~~thus~~ purchased shall be recorded just as any regular purchase of alcoholic beverages from the LDC Warehouse on the permittee's purchase records, ~~maintained in the Accounting Department of the Alcoholic Beverage Control Division.~~

102 The Division may at its discretion take possession of any and all alcoholic beverages remaining in stock of the permittee and a refund shall be made to the permittee at the current wholesale price. A charge for handling and transporting the product to the LDC Warehouse will be deducted from the refund. All permit fees paid by the permittee shall be forfeited. Such alcoholic beverages shall be placed in the Alcoholic Beverage Control Division inventory and sold in the regular course of business.

~~102 In the event such case of death or physical or mental disability of any permittee is not available to make a sale of the alcoholic beverages on hand, the same alcoholic beverages on hand shall may be picked up by the Alcoholic Beverage Control Division and the permittee or the permittee's estate will be given a refund therefor at the then current wholesale price, unless the merchandise is damaged by excessive price markings shop wear, or has old, faded and dirty labels, then the Director of the Alcoholic Beverage Control Division may determine the effect such damage will have on the stability of the returned alcoholic beverages and may adjust the refund to the permittee accordingly. The Division shall have the right to deduct a charge Five Dollars (\$5.00) per case for handling and transportation back to the LDC warehouse, in Gluckstadt, Mississippi.~~

103 ~~License Permit~~ holders desiring to discontinue business prior to expiration of the alcoholic beverage permits shall surrender their permits for cancellation, ~~and may dispose of their stock under the conditions outlined in Title 35, Part II, Subpart 3, Chapter, pParagraphs numbered 1, 2, 3 and 4 above.~~ 101 of the Mississippi Administrative Code.

104 ~~License Permit~~ holders who desire to return their stock to the ~~ABC Division~~ LDC Warehouse in Gluckstadt, Mississippi, may ~~return same do so~~ at the discretion of the ~~Commission, Director~~ pursuant to the procedures outlined in paragraph 101 above. Requests to return alcoholic beverages to another permittee must also be approved by the Director, by a method prescribed by the Alcoholic Beverage Control Division at the then current wholesale prices as reflected in the Alcoholic Beverage Control Division Price

Formatted: Indent: First line: 0"

~~List, but no refund will be made for special orders, novelty items contained in dual packaged products, ceramic decanters, holiday packages or delisted items, or t The Permittee may dispose of his alcoholic beverage stock as outlined in Title 35, Part II, Subpart 3, Chapter 1, pParagraph 101 of the Mississippi Administrative Codenumbered 1, 2, 3 and 4 above. The Alcoholic Beverage Control Division will charge the permittee Five Dollars (\$5.00) per case, a fee to which charge will cover all handling, packaging, and return freight charges required in connection with the return of such alcoholic beverage stock to the ABC inventory at the ABC DivisionLDC Warehouse in Gluckstadt, Mississippi.~~

~~105 Applications Requests to return alcoholic beverage stock to the ABC DivisionLDC Warehouse or to sell the stock to another permittee must be filed with the Permit Section and approved by the Director, of the Alcoholic Beverage Control Division.~~

~~106 If any county or judicial district which has therefore voted to come out from under the prohibition laws of this state pursuant to as provided in Miss. Code Ann. Section 67-1-11, Mississippi Code of 1972, Recompiled, shall vote to go back under the aforesaid prohibition laws of this state, the Alcoholic Beverage Control Division of the State Tax Commission shall have the right to take possession of all alcoholic beverages held in stock by all permittees within the aforesaid county or judicial district before the effective date of the order of the board of supervisors putting into effect the result of said the election, and The ABC shall make refund to the permittee at the then current wholesale price of the alcoholic beverages thereof to the aforesaid permittees, less a charge Five Dollar (\$5.00) per case charge for handling and transportation back to the warehouse, in Gluckstadt, Mississippi, but a All license permit fees theretofore paid by such permittee(s) shall be forfeited.~~

~~1057 However, the provisions of this regulation which provide for a No credit of merchandise returned to the LDC Warehouse shall not applybe given under to this Chapter for purchases to those permittees making purchases of de-listed items, novelty items contained in dual packaged products, ceramic decanters, holiday packages, or special orders or items not saleable. Such special merchandise shall not be redeemed by the State of MississippiDivision under any circumstances. All redeemed inventory will be placed in the ABC inventory.~~

~~1068~~ (Reserved)

Chapter 02 -Uniform Prices

100 Alcoholic beverages will be sold by the Alcoholic Beverage Control Division at uniform prices throughout the state. Prices of alcoholic beverages as published ~~by the Alcoholic Beverage Control Division~~ are f.o.b. retailer and contain all taxes with the exception of the Mississippi sales tax, ~~and the warehouse surcharge.~~ Mississippi sales tax will be computed on the total invoice price and added to each purchase.

101 (Reserved)

Chapter 03 -Cash Payment

- 100 ~~Alcoholic beverages shall be sold by the Alcoholic Beverage Control Division to the permittees and~~ All payments for all orders or alcoholic beverages must be made by cash, bank check, cashier's check, ~~bank exchange (draft)~~ACH Debit, post office money order or express money order. Permittees must send payment with their written orders on forms supplied by the ~~Alcoholic Beverage Control~~ Division or be authorized for ~~bank exchange (draft)~~ACH Debit status.
- 101 The ~~ABC~~ Division will draft ~~upon~~ the permittee's bank account for the amount of each invoice if the proper authorization is received by the ~~ABC~~ Division from the permittee and the permittee's bank.
- 102 If payment is dishonored or insufficient after a permittee has received an order on which ~~the~~ payment was made, the ~~Commission Department may in its discretion immediately notify the permittee and require a will~~ temporarily discontinuance of sales of alcoholic beverages until such time as payment is received, ~~or a hearing may be held on the matter.~~
- 103 If payment is dishonored for insufficient funds ~~and it is not a bank error~~ after a permittee has received an order on which ~~the~~ payment was made, the permittee will be ~~placed on~~required to pay with certified funds for a period of three (3) months. If a second dishonored check or ~~bank exchange~~ACH Debit is received ~~and it is not a bank error~~ the permittee will be ~~placed on~~required to pay with certified funds for one (1) year. Further dishonored checks of ACH Debits will require the permittee to pay with certified funds for an amount of time determined at the discretion of the Division. The Division retains the authority and discretion to require permittees to enter into bonds found in Miss. Code Ann. Section 27-71-21. A second dishonored payment will require that the permittee secure an additional five thousand dollar (\$5,000) bond. If the permittee has more than two (2) dishonored payments the permittee will be placed on certified funds for a period of three (3) years. Any additional dishonored payments after the initial three (3) year certified funds period will result in additional three (3) year periods of certified funds. At the end of the certified funds periods (3 months — 1 year — 3 years) the permittee must make written application to the ABC Director for reinstatement of the use of regular bank checks or bank exchange (draft). The permittee will be given ten (10) days from the date of notification of the dishonored payment to replace the dishonored payment or the permittee will be placed on the Commission agenda to begin the process to revoke the permit.~~Department will begin proceedings to revoke the permit.~~
- 104 (Reserved)
- 35.H.03.03 revised effective August 20, 2007.*

Chapter 04 -Split Cases

100 A number of ~~sizes of~~ selected items will be subject to split case sales. These items will be noted on the price lists published by the Alcoholic Beverage Control Division. Less than full cases of alcoholic beverages can be sold by the Alcoholic Beverage Control Division to ~~retailers~~ permittees. The current price list will contain instructions for ordering split cases.

101 (Reserved)

Chapter 05- Special Order Procedures

~~100 All products must have an approval from the Department before a company or an agent may make any sales or take any orders for such products. All requests must be submitted in writing to the Director and substantiated by facts and figures regarding prices, specifications, alcohol content and other relevant information requested. A sample or picture of the actual beverage container and label must also be provided for review.~~

~~1019~~ Special orders for any and all types of alcoholic beverages not currently listed on ABC's price list and not prohibited by Title 35-~~of the Mississippi Administrative Code~~, Part II, Subpart ~~42~~, Chapter 5 of the Mississippi Administrative Code may be placed by package ~~retailer~~ or ~~on-on~~-premises permittees in case lots only, ~~excluding ceramic decanters which may be ordered only by package retailers. A Mississippi Native Wine Tax Stamp must be placed on all bottles or containers of native wine. See Title 35 of the Mississippi Administrative Code, Part II, Subpart 5, Chapter 3.~~

~~1024~~ Special orders ~~will be~~ received by the Alcoholic Beverage Control Division ~~—Purchasing Department and will be~~ processed as promptly as feasible.

~~1032~~ The ~~Purchasing Agent of the Alcoholic Beverage Control~~ Division will obtain the prices from the supplier and use the regular pricing formula in arriving at wholesale prices to be submitted to the permit holder. Upon receipt of the quotation, the permit holder may place ~~a firm an order with the Division~~ order with the Purchasing Agent attaching his- and attach ~~remits~~ shall remittance funds to cover the entire cost.

~~1043~~ In addition, the provisions of Title 35-~~of the Mississippi Administrative Code~~, Part II, Subpart ~~34~~, Chapter 1 of the Mississippi Administrative Code dealing with the return of merchandise by permittees ~~to the Alcoholic Beverage Control Division Warehouse~~ shall not apply to special order merchandise. ~~Such~~ Any special order merchandise shall be redeemed ~~by the State of Mississippi~~ ONLY only as dry concealed damage as set forth in the Alcoholic Beverage Control Price List Book.

~~104 The Purchasing Agent~~ Department is authorized to promulgate procedural details to effectuate the purpose of this regulation.

~~105 All special orders must be labeled properly and in accordance with industry standards. If the LDC Warehouse labels the product, a fee will be charged.~~

~~1065~~ (Reserved)

Chapter 06 Importers', Vintners', and Distillers' Warehouses

- 100 Importers, vintners and distillers may warehouse and store ~~special purchase item~~ alcoholic beverages ~~which are not listed on the current Alcoholic Beverage Control Price List~~ in private bonded warehouses in Mississippi for the ultimate use and benefit of the ~~State Tax Commission~~Department of Revenue by obtaining prior approval from the ~~State Tax Commission~~Department. Bonded warehouses may be owned or operated by any entity which posts the required bond ~~hereinafter set out as provided in Paragraph 102 below~~.
- 101 All alcoholic beverages shipped into this state for storage in a private bonded warehouse must have the proper Mississippi ABC item code label affixed to each case. No withdrawal from inventory shall be permitted from a private bonded warehouse for shipment outside of the State of Mississippi unless special permission is obtained from the Director.
- 102~~4~~ Before any entity shall engage in warehousing and storage, a ~~Ten Thousand Dollar~~ (\$10,000.00) ~~B~~bond must be tendered to and approved by the ~~Alcoholic Beverage Control Division of the State Tax Commission~~, thereby insuring that the entity will strictly comply with all laws, rules and regulations of the State, and shall pay all taxes due the State of Mississippi.
- 102 ~~No alcoholic beverages shall be shipped into the State of Mississippi for storage in a private bonded warehouse without the prior written authority of the Alcoholic Beverage Control Division of the State Tax Commission. An itemized list of all shipments to such warehouses shall be furnished to the A.B.C. by the importer, vintner or distiller. The importer, vintner or distiller must affix the proper Mississippi A.B.C. item code label to each case shipped for storage. Within 24 hours of the receipt of the shipment, the private bonded warehouse, shall provide A.B.C. with an itemized list of the alcoholic beverages received and the condition of the inventory. All such shipments must be for sale only to the Alcoholic Beverage Control Division of the State Tax Commission.~~
- 103~~3~~ ~~No withdrawal from inventory shall be permitted from bonded warehouses for shipment outside the State of Mississippi, unless special permission is obtained from the Director of the Alcoholic Beverage Control Division of the State Tax Commission.~~
- 103~~4~~ Shipments from a private bonded warehouse to the ~~Liquor Distribution Center~~LDC warehouse must be by common carrier unless prior written approval of an alternate shipper is obtained in writing from the Director ~~of the Alcoholic Beverage Control Division of the State Tax Commission~~Division. All shipments to the ~~Liquor Distribution Center~~LDC warehouse must be accompanied by a standard bill of lading with the following additional information: the number of cases shipped, a description of the product(s) shipped, and the Mississippi ABC item code for the product(s) shipped. Cases shipped from a private bonded warehouse to the ~~Liquor Distribution Center~~LDC warehouse will be inspected ~~by the ABC staff~~.

and refused if the shipment contains unlabeled/uncoded cases, damaged cases, or mis-shipped cases.

1045 Shipments from a private bonded warehouse to the ~~Liquor Distribution Center~~ LDC Warehouse will be limited to one day per week, ~~said day~~ to be designated by the ~~Director of the Alcoholic Beverage Control Division of the State Tax Commission~~ Division.

1056 No alcoholic beverage samples shall be shipped into, stored, or shipped out of a private bonded warehouse.

1067 Each private bonded warehouse shall store its inventory of alcoholic beverages in an area so designated by the warehouse for alcoholic beverages, and shall maintain the inventory in a salable condition at all times. The alcoholic beverages shall not be interspersed with other goods stored in the private bonded warehouse.

1078 The private bonded warehouse's alcoholic beverage records and alcoholic beverage inventory shall be open for examination at any time ~~by the Director or staff of the Alcoholic Beverage Control Division of the State Tax Commission~~. Failure to keep up-to-date, accurate inventory and shipment records or to allow examination of the records or the inventory shall subject the warehouse to the immediate suspension of its rights to ship to the ~~Liquor Distribution Center~~ LDC Warehouse.

1089 All theft of alcoholic beverages must be immediately reported to the local authorities and to the ~~ABC~~ Division.

10940 An inventory, certified by the bonded warehouseman with whom such alcoholic beverages are stored, shall be furnished to the ~~Alcoholic Beverage Control Division of the State Tax Commission~~ Department within five (5) days after the close of business at the end of each calendar month.

~~111 The Director of the Alcoholic Beverage Control Division of the State Tax Commission is authorized to promulgate procedural details to effectuate the purpose of this regulation.~~

~~112 Importers, vintners and distillers are required to comply with all Federal guidelines and/or regulations.~~

1103 (Reserved)

Chapter 07 Procedure ~~F~~for Listing Alcoholic Beverage Items

100 New listings will be considered ~~by the Commission four (4) times each year at a scheduled meeting nearest the following dates: February 1, May 1, August 1, and November 1~~ at any time by the Department. In order for a product to be considered for listing, ~~on these dates~~, it must have met or exceeded the nine (9) month ~~ease~~ sales revenue formula outlined below and the manufacturer must be in compliance with the

inventory management guidelines as set forth by the Division. ~~All requests for listings must be submitted two (2) months prior to the date chosen for the listing.~~

- 101 In addition, the ~~Commission~~ Department retains full discretion to list or not list any product~~s which it may see fit at any time during the year.~~ Each company or agent thereof shall submit to the ~~Alcoholic Beverage Control~~ Division the new items it wishes to list. ~~All requests must be submitted in writing to the Director and substantiated by facts and figures regarding prices, specifications, alcohol content and other relevant information requested. A sample or picture of the actual beverage container and label must also be provided for review.~~

- 102 Products must be quoted in case units as provided by the manufacturer. Strapping or taping cases together or subdividing cases into units other than the manufacturer's original case unit is prohibited. Once approved, products shall be shipped ~~in~~ to the LDC Warehouse in original case units as provided by the manufacturer.

402 NINE MONTH CASE SALES FORMULA

	750ML	500ML	100ML		
	1.75L	1L	375ML	200ML	50ML
Bottled-in-bond and Straight Bourbon					
\$0.00 to \$12.00	90				45
\$12.01 up		45			
\$0.00 to \$5.00		135			
\$5.01 to \$7.00		90			
\$7.01 to \$9.99		60			
\$10.00 up			45		
\$0.00 to \$4.00			90		
\$4.01 to \$6.00			60		
\$6.01 up				45	
\$0.00 to \$2.00				90	
\$2.01 to \$4.99				60	
\$5.00 up					45
Whiskies	135	135	90	90	45
Blended Whiskies	90	135	90	90	45
Corn Whiskies	135	135	90	90	45
Tennessee Whiskey	45	135	60	60	45
Irish Whiskey		90	60	60	45
Rye Whiskey		60	60	60	45
Canadian Whiskey					45
\$0.00 to \$15.99	90				
\$16.00 up	45	45			
\$0.00 to \$7.99		135			
\$8.00 to \$15.99		90			

NINE MONTH CASE SALES FORMULA

	750ML	500ML	100ML
	1.75L	1L	375ML
		200ML	50ML

Canadian Whiskey

\$0.00 to \$4.00	90		
\$4.01 up	60		
\$0.00 to \$2.50		90	
\$2.51 up		60	

Scotch 45

\$0.00 to \$15.00	90		
\$15.01 up	45	45	
\$0.00 to \$7.00		135	
\$7.01 to \$15.00		90	
\$0.00 to \$5.00		90	90
\$5.01 up		60	60

Gin

\$0.00 to \$10.99	90	135	
\$11.00 to \$14.49	45	90	
\$14.50 up	45	45	
\$0.00 to \$2.99		90	
\$3.00 to \$4.99		60	
\$5.00 up		45	
\$0.00 to \$2.49		90	45
\$2.50 up		60	

Vodka

\$0.00 to \$10.00	90	135	
\$11.00 to \$14.49	45	90	
\$14.50 up	45	45	
\$0.00 to \$2.99		90	
\$3.00 to \$4.49		60	
\$5.00 up		45	
\$0.00 to \$2.49		90	45
\$2.50 up		60	

Flavored Vodka

\$0.00 to \$7.99	90		45
\$8.00 to \$11.99	60		
\$12.00 up	45		
\$0.00 to \$4.49		60	60
\$5.00 up		45	45

NINE MONTH CASE SALES FORMULA

	750ML	500ML	100ML
	1.75L	1L	375ML
	200ML	50ML	

Flavored Gin 90 90 90 90 45

Rum

\$0.00 to \$7.99 90 135 45

\$8.00 up 45 90

\$0.00 to \$2.49 90 90

\$2.50 up 60 60

Tequila

\$0.00 to \$10.99 45 90 45 25

\$11.00 to \$13.99 45 90 60

\$0.00 to \$2.49 90 45

\$2.50 up 60

\$20.00 up 25

\$14.00 to \$19.99 45

Cocktails 45 90 90 90 45

Alcohol 90 60 60 45

Brandy 45 90 45 45 45

Cognac-Brandy Imported

\$0.00 to \$12.00 45 90 45 45 45

\$12.01 up 45

Brandy (Flavored) 45 90 60 45 45

Liquor & Cordial 45 45 45 45 45

Dom

Liquor & Cordial 45 45 45 45 45

Imported

Specialty 45 45

Vermouth 45 45

NINE MONTH CASE FORMULA

Still Wines and Sparkling Wines (Imported and Domestic)

10L	3L			355ML
12L	4L	1.5L	750ML	375ML
18L	5L	2L	1L	500ML
				187ML

\$0.00 up	45	45		
\$0.00 to \$0.99		90	90	90
\$1.00 to \$1.99		90	90	90
\$2.00 to \$2.99		90	90	45
\$3.00 to \$3.99		90	90	35
\$4.00 to \$5.99		90	45	25
\$6.00 to \$8.99		45	35	25
\$9.00 up		45	25	25

103 For spirits, the total revenue from sales must be greater than \$4,500 with sales of 25 -or more cases during the nine (9) month period beginning May 1st and ending January 31st. The Division shall review the minimum dollar limit and case limit on an annual basis and make changes as circumstances dictate.

104 For wines, the total revenue from sales must be greater than \$4,500 with sales of 25 or more cases during the nine (9) month period beginning May 1st and ending January 31st. The Division shall review the minimum dollar limit and case limit on an annual basis and make changes as circumstances dictate.

105 Unique products or classes of products may, at the discretion of the Division, be separated from the wine or spirit categories and given its own minimum revenue and case sales requirements as circumstances dictate. The total revenue from sales shall equal the case cost, at wholesale, multiplied by the number of cases sold during the nine (9) month period.

1063 The total revenue from sales shall equal the case cost, at wholesale, multiplied by the number of cases sold during the nine (9) month period. These foregoing formula is based on cases actually sold to permittees and not based on cases ordered. Cases that-which are ordered by permittees; but not sold due to the fact that the product ordered be-is out of stock or for any other reason will not be considered in the application for-of theis formula.

1074 Furthermore, any special order item that meets or exceeds the nine (9) month case-sales revenue formula may, at the Commission's-Department's discretion, be placed in the ABC Division's Price List.

1085 "One-of-a-kind" and "Christmas" holiday items are exempt from the quota requirements. No "Christmas" holiday item shall contain cash, coupons, rebates, or any items subject to spoilage.

1096 Price changes will be considered four (4) times each year and will become effective on the following dates: February 1, May 1, August 1, and November 1. Such changes to be considered for February 1, must be filed with the Alcoholic Beverage Control Division by December 1; for May 1, by March 1; for August 1, by June 1; for November 1, by September 1.

1107 ~~A Mississippi Alcoholic Beverage Control Stamp must be placed on each bottle or container of native wine produced. See Title 35 of the Mississippi Administrative Code, Part II, Subpart 5, Chapter 3. Each bottle of native wine shall have clearly imprinted on the label the words Mississippi Native Wine.~~

108 ~~The Director of the Alcoholic Beverage Control Division is authorized to promulgate procedural details, including a pricing formula, to effectuate the purpose of this regulation and to defray additional cost.~~

1109 (Reserved)

Chapter 08 Procedure ~~F~~for Delisting ~~or~~ /Deleting Alcoholic Beverages

100 Any items on the Alcoholic Beverage Control Division's price list will be de-listed for failure to meet the ~~nine (9) month~~ ease sales revenue formula standard as set out in Title 35 ~~of the Mississippi Administrative Code~~, Part II, Subpart ~~034~~, Chapter 7 ~~of the Mississippi Administrative Code~~; however, the Commission Department may, in its discretion, continue to maintain an item in its price list ~~provided the number of sales for the particular product constitutes ninety percent (90%) of the standard for that item, as stated in the nine (9) month ease sales formula~~ that does not meet the minimum revenue standard. Furthermore, the Commission Department reserves the right to de-list any item ~~as punishment~~ for violation of any law or regulation or when, in its opinion, the best interest of the Alcoholic Beverage Control Division may be served.

101 The storage of items at the ~~Liquor Distribution Center~~ LDC Warehouse is strictly a voluntary act by its owner(s). The Commission Department retains the right, ~~however~~, to regulate the location of all items placed in bailment. Manufacturers shall manage the inventory of items stored in the LDC Warehouse in compliance with the parameters as set forth by the Division. Manufacturers who do not comply with the guidelines as set forth, may, at the discretion of the Division, be stopped from listing new products and special purchase allowances. Failure of a company to ~~either stock a bailment item within thirty (30) days after the effective date of the price list or failure of a company to maintain an adequate appropriate inventory, as designated by the Commission Department~~, may result in the delisting of the item.

102 Any bailment item voluntarily removed by the company, or delisted by the Commission Department, shall be removed from the State at the direction ~~and under the control~~ of the Commission Department. Delisted items must be removed from bailment within thirty (30) days from the date of delisting. Any item delisted will not be eligible

for re-listing for a minimum of one (1) listing period. Delisted items may, subject to ~~Commission-Department~~ approval, be offered as a special order item, pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart ~~034~~, Chapter 5 of the Mississippi Administrative Code.

~~103 All products remaining after the thirty (30) day period shall become the property of the Division for disposition as it sees fit.~~

Formatted: Indent: Left: 0", Hanging: 0.5"

~~1043~~ (Reserved)

Chapter 09 Dual Packaging

100 The holder of a manufacturer's or ~~wholesaler's-solicitor's~~ permit may submit to the ~~Alcoholic Beverage Control~~-Division certain unit packages consisting of a specialty or novelty item and an alcoholic beverage previously listed with the ~~ABC-Division~~ for sale in retailer package stores. Novelty items include, but are not limited to: T-shirts, sportswear, ~~glass-wear~~glassware, ~~stone-wear~~stoneware, flags, and banners. However, goods subject to spoilage will not be permitted. All products containing dual packaged items must have prior approval of the ~~Alcoholic Beverage Control~~-Division.

101 The unit packages shall be assembled prior to shipment to the ~~Alcoholic Beverage Control-Division~~LDC Warehouse located in Gluckstadt, Mississippi, and shall be contained in sealed packages. Novelties may not be sold separately but must be sold as a unit in one original, unopened package. Dual package items will not be sold in split cases. The ~~Alcoholic Beverage Control~~-Division will not be responsible for damaged or defective dual packaged products other than alcoholic beverages.

102 (Reserved)

Chapter 10 Bailment Procedures - Policies and Procedures of Mississippi Alcoholic Beverage Control Bailment Warehouse System

100 ~~Beginning April 29, 1991, the Tax Commission's Alcoholic Beverage Control Division (ABC) will began bailment warehouse operations. Mississippi uses the bailment system for operations of the LDC Warehouse. A bailment warehouse is a warehousing method whereby alcoholic beverages owned by the vendor are stored in the Liquor Distribution Center (LDC) for subsequent shipment to retail permittees. NABCA shall hereinafter refer to the National Alcoholic Beverage Control Association. When bailment is used, there will be a bailment agreement between the Division and the vendor.~~

~~101~~ Under the bailment system, ABC inventory is used first; when the ABC inventory is insufficient, the vendor's inventory will be utilized.

~~101 All bailment alcoholic beverages received by the Division will be stored at the Liquor Distribution Center Warehouse. The Division will determine the location of all alcoholic~~

beverages stored in the LDC Warehouse. The Division reserves the right to manage warehouse space allocation.

102 (Reserved)

200 Vendors will own and control the stock that enters the LDC Warehouse. The Division will take physical inventory on a continuous cycle counting basis. Any irreconcilable discrepancies will be resolved as follows:

1. The Division will pay the vendor for the product in cases of physical shortage of the vendor's product.
2. The Division will place any surplus into its own inventory in cases of physical overage of the vendor's product.

201 Vendors may conduct their own physical inventory of stock held in bailment by arrangement with the Division at least 48 hours in advance. Vendors or their agents should bring discrepancies to the attention of the Division.

202 The Division will routinely authorize the product into the distribution center for restocking purposes.

203 The Division will require that vendors designate an agent who will be responsible for approving stock withdrawal. A Mississippi Bailment Warehouse Vendor's Authorization Representative Form should be completed for each authorized agent. Vendors must update this document as needed.

204 The Division will notify the vendor's agent during the last week of each month of their intention to purchase specified inventory belonging to the vendor based on anticipated needs for the following month. If the vendor does not respond within two (2) hours after receipt of the notification, the vendor will be deemed to have authorized the anticipated purchase. This report shows the maximum anticipated purchases. Actual purchases may differ due to the availability of the vendor's product on the date the inventory was picked, the availability of new receipts into the LDC Warehouse, and the availability of ABC owned inventory which will be removed first.

205 Vendors shall comply with the inventory management guidelines as set for by the Division. Vendors who do not comply, may, at the discretion of the Division, be stopped from listing new products and/or offering special purchase allowances.

206 The receipt of bailment merchandise is according to the following terms and conditions.

1. Receiving into the bailment-warehousing systems will take place at the LDC Warehouse.
2. Product will not be unloaded if it is not shipped on pallets or slip-sheets. Pallets are the preferred method for delivery; therefore, there will be a charge for the use of slip-sheets
3. Vendors are required to supply LDC Warehouse personnel with a Bill of Lading or Packing List at delivery which must include the control state code, the

description and name of the product, and the quantity of the product being delivered to the LDC Warehouse.

4. The vendor will be responsible for obtaining the freight carrier.
5. The carrier is required to call the LDC Warehouse to obtain an unloading appointment time. The carrier must indicate the vendor when scheduling the appointment.
6. The Division will complete a Receiving Report form for each load delivered. The case quantity shown on the form will reflect any overage or shortage compared to the Bill of Lading or Packing List supplied by the carrier.
7. LDC Warehouse personnel will unload all products. Carrier drivers are required to witness the unloading. The driver and Division representative will sign the unloading report form and the Bill of Lading or Packing List.
8. If the Division discovers an error in the receiving process, the Division will complete an Inventory Correction form which will be attached to the original receiving report.

Formatted: Indent: Left: 0.5"

207 Because the Division may purchase damaged goods and subsequently establish a receivable with the vendor, the LDC Warehouse Operations Manager will be responsible for determining whether damaged goods are to be received into the bailment inventory. The Division will always attempt to resolve any problems in this area to the mutual satisfaction of the vendor and the Division.

Formatted: Indent: Left: 0", First line: 0"

208 The Division believes that it is advantageous to the vendor and the Division to accept merchandise with small amounts of damage which has occurred during the shipping process. At the discretion of the LDC Warehouse Operations Manager, goods with slight damage will be received into the Division inventory and placed in the repack area. The Division will purchase the damaged bottle(s) and file a claim against the vendor for recovery of the damaged bottle's purchase price.

Formatted: Indent: Left: 0", First line: 0"

209 When the Division discovers substantial damage, the truck will be sealed and the vendor notified. The vendor or designated agent will be responsible for determining how the damaged goods are to be handled. The Division will assist the vendor in substantiating the degree of damage, but the vendor is responsible for filing a claim against the carrier. No goods from the damaged shipment will be received into the LDC Warehouse until the LDC Warehouse Operations Manager is satisfied with the vendor's determination.

210 All products are owned by the vendor. It will be the responsibility of the vendor to file claims with the carrier to recover the cost of damages which occurred during the transportation of the alcoholic beverages.

211 Vendor's agents may obtain a report from the NABCA showing the activity of their products.

212 (Reserved)

300 Vendors may withdraw product from bailment; however, for the purposes of warehouse administration, all removals must be approved 24 hours in advance of removal and will occur during normal LDC Warehouse receiving hours. The vendor must provide in writing the item code, name, description, and quantity of the product being removed, as well as the motor carrier picking up the product from the LDC Warehouse and the product destination. The division will load the product onto the truck. The carrier's driver will observe the loading. Both the Division representative and the driver must sign the Bill of Lading and a copy of the document will be provided to the vendor. The Division will adjust the bailment inventory records and will charge the vendor a handling fee to cover the cost of the requested withdrawal.

Formatted: Indent: Left: 0", First line: 0"

301 (Reserved)

400 The Division will charge for certain services. Charges may include, but will not be limited to, the following services:

Formatted: Indent: Left: 0", First line: 0"

1. Labeling
2. Re-packing
3. Damage Re-packing
4. Reloading for shipping
5. Split case handling
6. Bailment fees
7. Unloading product received on slip-sheets

401 Vendors must comply with Federal laws, guidelines, and regulations.

402 Prior to using the LDC Warehouse, each vendor will be required to execute the bailment agreement and designate an agent.

403 The Division will not carry insurance on the vendor's inventory in bailment nor be responsible for any loss. Vendor's agents will be provided inventory reports to assist vendors in determining the value of their inventory. This report may be obtained from the NABCA.

404 Claims by vendor must be presented in writing to the Division within thirty (30) days after vendor's claim arises.

405 The Division may submit to the vendor and/or the vendor's agent, or may require the vendor or vendor's agent to submit to the Division, other documents necessary to conduct its operations.

406 (Reserved)

1. Warehouse Location

~~All bailment alcoholic beverages received by the ABC will be stored at the Liquor Distribution Center located at 1286 Gluckstadt Road, Madison, Madison County, Mississippi. The mailing address is P.O. Box 540, Madison, Mississippi 39130-0540.~~

Formatted: Normal, Justified, Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left

2. Designation of Product Location

The ABC will determine the location of all alcoholic beverages stored in its distribution center. The existing product locations will be maintained whenever possible, however, the ABC reserves the right to manage warehouse space allocation.

3. Stockownership and Bailment Replenishment

a. Vendors will own and control the stock that enters the ABC Distribution Center (See APPENDIX E inventory).

b. The ABC will routinely authorize the product into the distribution center for restocking purposes.

c. The ABC will require that vendors designate an agent, who will be responsible for approving stock withdrawal. APPENDIX A: MISSISSIPPI BAILMENT WAREHOUSE VENDOR'S AUTHORIZED REPRESENTATIVE. Vendors must update this document as needed.

d. The ABC will notify the vendor's agent during the last week of each month of their intention to purchase specified inventory belonging to the vendor based on anticipated needs for the following month. If the vendor does not respond within 2 hours after receipt of notification, the vendor will be deemed to have authorized the anticipated purchase. This report shows the maximum anticipated purchases. Actual purchases may differ due to:

i. Availability of the vendor's product on the date the inventory was picked;
Availability of new receipts into the distribution center;
The availability of any ABC owned inventory, which will be removed first.

gThe receipt of bailment merchandise is according to the terms and conditions listed in APPENDIX C: "RECEIVING DOCKS, OVERAGE, STORAGE AND BREAKAGE".

gVendor's agents may obtain weekly a computerized report showing the activity of their products from the NABCA.

4. ABC Purchases

To provide for product availability for privately owned permittees, the ABC will advise vendors of the codes and quantities that will be needed during a particular time period as described in 3b and 3d.

ABC often receives requests for an item that is not listed in its Price Book. ABC will attempt to satisfy these requests through the special order procedure established in Title 35 of the Mississippi Administrative Code, Part II, Subpart 3, Chapter 5.

A number of alcoholic beverages will be subject to split case sales. Items available in split case will be determined by ABC through established procedures. Vendors will be notified as detailed in 3e.

5. Withdrawal of Bailment Inventory by Vendor

The vendor may withdraw alcoholic beverages from bailment for the following reasons:

i. Redistribution to other areas. The vendor cannot redistribute the product to permittees in Mississippi.

ii. If the product is unsalable (APPENDIX D, 4).

iii. If the product has been delisted (9 a,b).

Formatted: Indent: Left: 0", Tab stops: 0.5", Left + Not at 0.81"

Formatted: Right: 0.5", No bullets or numbering, Tab stops: 0.5", Left

Formatted: Normal, Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left

- ~~—b. The ABC must approve the removal of any product before it can be removed from the distribution center. Such approval must be approved 24 hours in advance of the removal and may occur during distribution center delivery hours (APPENDIX C, 1 f).~~
- ~~—c. The vendor must provide a motor carrier to be used when removing product from the distribution center.~~
- ~~—d. ABC will load the product on to the truck. The carrier's driver will observe the loading. Both the ABC representative and the driver must sign the Bill of Lading and a copy of the document will be provided to the vendor. ABC will adjust the bailment inventory records.~~
- ~~—e. ABC will charge the vendor a handling fee to cover the costs of requested withdrawal.~~

~~6. ABC Charges~~

~~The ABC has historically charged for certain services. These charges will continue on the following items:~~

- ~~—a. Labeling~~
- ~~—b. Re packing~~
- ~~—c. Damage Re packing~~
- ~~—d. Reloading for shipping~~

~~7. Federal and Other Requirements~~

- ~~—a. Vendors must comply with Federal guidelines and/or regulations.~~
- ~~b. Prior to using ABC's distribution center, each vendor will be required to execute the bailment agreement and have designated an agent (3e).~~

~~8. Insuring the Inventory~~

- ~~—a. The ABC will not carry insurance on the vendor's inventory in bailment nor be responsible for any loss except as provided for in APPENDIX D: "INVENTORY OVERAGE, SHORTAGE OR DAMAGE OCCURRING WHILE VENDOR'S INVENTORY IS HELD IN BAILMENT."~~
- ~~—b. Vendor's agents will be provided inventory reports to assist vendors in determining the value of their inventory. This report may be obtained from the Purchasing Department.~~

~~9. Listing/Desisting Products~~

- ~~a. The ABC will continue listing/delisting procedures as detailed in Title 35 of the Mississippi Administrative Code, Part II, Subpart 03, Chapters 7 and 8. Following notification of delisting, the vendor will have 30 days to remove the product from the ABC Distribution Center. All products remaining after the 30-day period shall become the property of ABC for disposition as it sees fit.~~
- ~~b. Following notification of delisting, the vendor will have 30 days to remove the product from the ABC Distribution Center. All products remaining after the 30-day period shall become the property of ABC for disposition as it sees fit.~~

~~10. Claims by Vendor~~

~~Claims by vendor must be presented in writing to the ABC within 30 days after vendor's claim arises.~~

~~11. Additional Documents~~

~~The ABC may submit to vendor and/or the vendor's agent, or may require the vendor or vendor's agent to submit to ABC, other documents necessary to conduct its operations.~~

Formatted: Normal, Right: 0.5", Tab stops: 0.5", Left + Not at 0.44" + 0.69"

Formatted: Normal, Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left + Not at 0.63" + 6"

Formatted: Normal, Right: 0.5", Tab stops: 0.5", Left + Not at 0.44" + 0.75"

Formatted: Normal, Right: 0.5", Tab stops: 0.5", Left + Not at 0.44" + 0.69"

Formatted: Normal, Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left + Not at 0.75" + 0.88" + 0.94"

Formatted: Normal, Tab stops: 0.5", Left + Not at 0.44" + 0.69"

Formatted: Normal, Right: 0.5", No bullets or numbering, Tab stops: 0.5", Left + Not at 0.06"

Formatted: Normal, Tab stops: 0.5", Left + Not at 0.44" + 0.63" + 0.69" + 0.75"

Formatted: Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left + Not at 5.5"

Formatted: Tab stops: 0.5", Left + Not at 0" + 0.44" + 0.63" + 0.75" + 5.5"

Formatted: Indent: Left: 0", Right: 0.5", Tab stops: 0.5", Left + Not at 0.69"

~~Required Bailment Agreement Form-~~

~~102 BAILMENT AGREEMENT BETWEEN ALCOHOLIC BEVERAGE CONTROL AND
The Alcoholic Beverage Control Division, hereinafter referred to as the ABC,
headquartered at 1286 Gluckstadt Road, Madison, Mississippi 39110, and _____
_____, hereinafter referred to as the Vendor, headquartered at _____
_____, entered into this agreement for the purpose of operating a bailment warehouse program.
This agreement will be effective _____, and will remain in effect
until cancelled in writing by the ABC or vendor with 30 days notice. A bailment
warehouse program is defined as meaning the Vendor will own the stock in the ABC
Liquor Distribution Center until it is withdrawn from bailment for shipment to the ABC
permittees.~~

~~The ABC and the Vendor agree to the following:~~

- ~~1. The vendor agrees to place, without charge, approved items of alcoholic beverages into the ABC's distribution center at 1286 Gluckstadt Road, Madison, Mississippi, 39110. The items are to be shipped in accordance with the ABC's shipping instructions and, when shipped, are to be cosigned to the vendor, or his representative or agent, in care of the ABC's distribution center.~~
- ~~2. The ABC agrees to handle and store approved items furnished by the vendor for sale in Mississippi.~~
- ~~3. The vendor agrees that all price quotations for bailment stock will be delivered prices to the ABC's distribution center, including tax and duty on imported items.~~
- ~~4. THE ABC SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY TO ALCOHOLIC BEVERAGES STORED HOWEVER CAUSED UNLESS SUCH LOSS OR INJURY RESULTED FROM FAILURE OF THE ABC TO EXERCISE SUCH CARE IN REGARD TO THE STORED ALCOHOLIC BEVERAGES AS A REASONABLY PRUDENT PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES AND THE ABC IS NOT LIABLE FOR DAMAGES WHICH COULD NOT HAVE BEEN AVOIDED BY SUCH CARE.~~
- ~~5. The ABC agrees it will purchase any bailment stock which disappears or is broken by ABC employees while stored in the ABC's distribution center.~~
- ~~6. Subject to the 48 hour notice provision in Appendix E, ABC agrees to allow the vendor to conduct physical counts of its bailment stock in the distribution center for its own purposes, and to make selected reports available to the vendor for accounting reconciliation purposes.~~
- ~~7. The ABC agrees to request from the vendor authorization to purchase and withdraw from bailment stock, in advance, before the stock is pulled for shipment to its permittees. No response will be required unless permission to withdraw is denied.~~
- ~~8. The ABC agrees to issue payment vouchers and invoices at mid-month and month-end for withdrawals of the previous half month. The ABC will pay for the products withdrawn directly from these documents; hence, no vendor invoices will be required.~~
- ~~9. The vendor agrees to secure any applicable state and/or federal basic permits and federal special occupational tax stamps that may be needed before any alcoholic beverages are shipped into the distribution center under the bailment program.~~

- ~~10. The vendor agrees that any bailment items deleted or unapproved items miss shipped will be the responsibility of the vendor to remove from the ABC's distribution center.~~
~~11. The vendor agrees to abide by the bailment policies and procedures established by the ABC, which are specifically incorporated into this agreement.~~

Vendor Signature _____ ABC Signature _____

Date _____ Date _____

Vendor FAX Number _____
FAX Location _____

APPENDIX A

~~ALCOHOLIC BEVERAGE CONTROL DIVISION
STATE TAX COMMISSION
P.O. BOX 540, Madison, Ms. 39130-0540
(601-856-1301, FAX (601-856-1390)~~

~~MISSISSIPPI BAILMENT WAREHOUSE VENDOR'S AUTHORIZED REPRESENTATIVE~~

~~1. Vendor's Company name: _____~~

~~____ Street: _____~~

~~____ City, State, Zip: _____~~

~~____ Telephone: _____ FAX Number _____~~

~~The vendor designates the following representative(s) to authorize the ABC to purchase products from those maintained in the bailment distribution center. Products shipped to the bailment distribution center by the vendor are consigned to the vendor's representative(s) for the purpose of making sales at the bailment distribution center to the ABC. The vendor agrees that its designated representative will indicate its acceptance or rejection, in whole or in part, of an ABC Division order for products maintained in the bailment distribution center within two hours of receipt of the order, or the ABC's order will be deemed to have been accepted. The vendor is responsible for up-dating this document as needed.~~

~~2. Representative's Name: _____~~

~~____ Street: _____~~

~~____ City, State, Zip: _____~~

—Telephone:_____ Fax Number_____

3. Alternate Representative's Name:_____

—Street:_____

—City, State, Zip:_____

—Telephone:_____ Fax Number:_____

Signature of person authorized _____ Print Name
By vendor to sign and execute
Documents

Date_____ Title_____

APPENDIX B

COMPUTER REPORTS

1. ~~The following reports and forms will be available from the NABCA:~~
 - a. ~~Weekly sales and inventory report~~
 - b. ~~Weekly stock outage report~~
 - c. ~~Weekly bailment inventory restocking report~~
 - d. ~~Monthly active permit list~~
 - e. ~~Sales quota report (provided once annually)~~
2. ~~Additionally reports and statistical information may be obtained from the NABCA for a fee.~~

APPENDIX C:

RECEIVING DOCKS—OVERAGE, SHORTAGE AND BREAKAGE

1. Scheduling
 - a. ~~Receiving into the bailment warehousing system will take place at distribution center located at 1286 Gluckstadt Road, Madison, MS.~~
 - b. ~~Product will not be unloaded if it is not shipped on pallets or slip sheets.~~
 - c. ~~Vendors are required to supply ABC Distribution Center personnel with a Shippers Load Manifest at least seventy-two (72) hours in advance of shipment of quantities, by control state code of product being delivered to the ABC Distribution Center.~~
 - d. ~~The vendor will be responsible for obtaining the freight carrier.~~
 - e. ~~The carrier is required to call the Distribution Center to obtain An unloading appointment time. The carrier must indicate the vendor when scheduling the~~

~~appointment. Carriers should call at least three (3) working days in advance to arrange the unloading time.~~

~~f. Receiving hours will be 7:00 a.m. to 3:00 p.m. There will be no receiving on Saturdays, Sundays, or designated State holidays.~~

~~g. The ABC will consider claims for demurrage or detention charges which are incurred as a result of untimely unloading as long as the carrier adheres to the delivery schedule mutually established by the ABC Receiving Officer and the carrier.~~

~~2. Receiving~~

~~a. The ABC staff will complete a Receiving Report form for each load delivered. The case quantity shown on the form will reflect any overage or shortage compared to the manifest supplied by the carrier.~~

~~b. ABC Distribution Center personnel will unload all products. Carrier drivers are required to witness the unloading. The driver and ABC representative will sign the unloading report form and the Bill of Lading or Delivery Report.~~

~~c. If the ABC staff discovers an error in the receiving process, they will complete an Inventory Correction form which will be attached to the original receiving report.~~

~~3. Receiving Damaged Merchandise~~

~~a. Because the ABC may purchase damaged goods and subsequently establishes a receivable with the vendor, the ABC Warehouse Operations Manager will be responsible for determining whether damaged goods are to be received into the bailment inventory. The staff will always attempt to resolve any problems in this area to the mutual satisfaction of the vendor and the ABC.~~

~~b. The ABC believes that it is advantageous to the vendor and the ABC to accept merchandise with small amounts of damage which has occurred during the shipping process. At the discretion of the ABC Warehouse Operations Manager, goods with slight damage will be received into the ABC inventory and placed in repack area. The ABC will purchase the damaged bottle(s) and file a claim against the vendor for recovery of the (damaged) bottle(s) purchase price.~~

~~c. When the ABC discovers substantial damage, the truck will be sealed and the vendor notified. The vendor or designated agent will be responsible for determining how the damaged goods are to be handled. The ABC staff will assist the vendor in substantiating the degree of damage, but the vendor is responsible for filing a claim against the carrier. No goods from the damaged shipment will be received into the distribution center until the ABC Warehouse Operations Manager is satisfied with the vendor's determination.~~

~~d. All products are owned by the vendor. It will be the responsibility of the vendor to file claims with the carrier to recover the cost of damages which occurred during the transportation of the alcoholic beverages.~~

~~APPENDIX D:~~

~~INVENTORY OVERAGE, SHORTAGE OR DAMAGE OCCURRING WHILE VENDOR'S INVENTORY IS HELD IN BAILMENT~~

~~The ABC is responsible for the accuracy of documentation and the receiving and shipping process while the vendor's goods are in bailment.~~

~~1. Shortage~~

- ~~a. Shortage is defined as a physical quantity of a product which is less than the inventory records indicate.~~
- ~~b. The ABC will pay vendors for most types of shortages occurring while the inventory is held in bailment.~~
- ~~c. If the shortage is a result of a miss shipment to a retail permittee, the ABC will retrieve the bottle(s) in error and adjust the vendor's inventory accordingly.~~
- ~~d. If the shortage is the result of undetected shrinkage of inventory, then the ABC accepts responsibility for the loss and will make the appropriate payment to the vendor.~~

~~2. Overage~~

- ~~a. Overage is defined as a physical quantity of a product which is greater than the inventory records indicate.~~
- ~~b. The ABC will place the overage in its own inventory.~~

~~3. Damages~~

- ~~a. In this context, "damages" refers to improper or careless handling by distribution center personnel only. The ABC will not insure nor be responsible for the vendor's product against fire, theft, water damage or any other cause or condition.~~
- ~~b. The ABC accepts responsibility for holding the vendor's goods in a safe and salable condition. The ABC Warehouse Operations Manager will notify vendors of improperly palletized, slip sheeted or packaged products and, failing resolution, the merchandise may be placed in unsalable status.~~
- ~~c. The ABC will purchase damaged bottle(s) as defined in the first sentence of 3a (above).~~

~~4. Un salable Products~~

~~Unsalable alcoholic beverage is defined as product that is not fit for human consumption. Unsalable alcoholic beverages located in the ABC Distribution Center will be disposed of in accordance with instructions provided by the vendor. Such disposition instructions must be provided by the vendor with 30 days after the vendor is notified of the unsalable alcoholic beverages. ABC may destroy the unsalable alcoholic beverages and invoice the vendor for handling charges if the vendor fails to provide disposition instructions. Because retail permittees will be credited by the ABC for unsalable alcoholic beverages which are returned, vendors are required to grant a credit to the ABC for that product. Under no circumstances will the ABC be deemed to purchase any unsalable alcoholic beverages provided out of bailment stock.~~

~~APPENDIX E:
INVENTORY~~

~~1. Physical Inventories~~

- ~~a. The ABC will take physical inventory twice a year unless circumstances prohibit.~~
- ~~b. Irreconcilable discrepancies will be resolved as follows:~~
 - ~~1. Physical shortage of the vendor's product: the ABC will pay the vendor for the missing product.~~

~~2. Physical coverage of the vendor's product: the ABC will place the surplus into its own inventory.~~

~~3. Vendors may conduct their own physical inventories of stock held in bailment by arrangement with the Purchasing Agent at least 48 hours in advance.~~

~~2. Inventory Status~~

~~a. Vendors, or their agents, should bring discrepancies to the attention of the Purchasing Agent at (601) 856-1340.~~

~~Subpart 04 Administrative Procedures~~

~~Chapter 01 Administrative Procedure Before The Department of RevenueState Tax Commission on The Aleoholic Beverage Control Statutes~~

~~100 All applications for permits shall be investigated under the direction of the Director of the Aleoholic Beverage Control Division of the State Tax Commission. If such investigation fails to reveal any reason why the permit should not be issued to the applicant, the aforesaid permit shall be issued by the Commission without further administrative procedure.~~

~~101 If the investigation of the application reveals sufficient grounds, which, in the opinion of the Director of the Aleoholic Beverage Control Division of the State Tax Commission or the said Commission, would justify the refusal to issue the permit, the applicant should be so notified.~~

~~102 If objection is filed to any applicant being issued a permit, investigation shall be conducted concerning the validity of such objection. If any person objects to any applicant being issued a permit and requests in writing that a hearing be granted thereon, the Commission, may in its discretion, grant a hearing before such applicant is awarded a permit. All of such hearings may be held either in the City of Jackson or at some other place in the State of Mississippi designated by order of the State Tax Commission.~~

~~103 All hearings conducted by the State Tax Commission in regard to any phrase of the administration of the statutes dealing with the control of aleoholic beverages under its statutory control shall only be held after minimum notice of at least ten (10) days has been given to all interested parties of the time and place of such hearing. Such notice shall be given by registered or certified mail.~~

~~104 All hearings shall be taken down either in shorthand or by tape recorder, or both, and any party aggrieved by the decision of the State Tax Commission shall have a period of thirty (30) days after the decision of the State Tax Commission within which to appeal therefrom. A copy of the decision of the State Tax Commission shall be sent by registered mail, return receipt requested, to each party applying for a permit or whose permit is sought to be cancelled and by regular mail to each party asking for a hearing thereon in writing, but the running of the time for appeal shall commence with the date of the aforesaid order and not from the date of its receipt by such interested parties.~~

~~105 — Notice of appeal from any hearing shall be directed to the Chairman of the State Tax Commission.~~

~~106 — All persons testifying before the Commission shall be first sworn to tell the truth by a person qualified to administer oaths under the Laws of this State.~~

~~107 — The rules of evidence shall apply in all hearings before the Commission but may be relaxed by the Commission in unusual circumstances in order for the Commission to ascertain all facts in issue. Examination of witnesses shall be conducted for and on behalf of the State Tax Commission by an assistant attorney general or some person in the Legal Section of the Alcoholic Beverage Control Division of the State Tax Commission. When neither party to the hearing is represented by counsel, the aforesaid assistant attorney general or person in the Legal Section of the Alcoholic Beverage Control Division of the State Tax Commission shall examine all parties and witnesses for the purpose of fully developing the facts in the particular proceedings, but if any party is represented by counsel, the aforesaid attorneys for the State Tax Commission shall take the position opposed to such attorneys in said hearing for the purpose of bringing all matters connected therewith to the attention of the Commission.~~

~~108 — (Reserved)~~

~~Chapter 02 Appeal From Administrative Denial Of Permit, Resort Area Application, Manager Application, Or Employee ID Card~~

~~100 — When the Commission, administratively, and without a hearing, denies a permit for sale of alcoholic beverages, or denies an application to designate a certain area as a qualified resort area, or denies a manager application, the denial of such application shall not become effective for a period of 15 days thereafter, during which time any interested person may request a full evidentiary hearing before the Commission. In the absence of such request, the initial administrative determination shall stand and the right of appeal shall be denied.~~

~~101 — Hearings by the State Tax Commission, and any appeal therefore, shall be conducted pursuant to Title 35 of the Mississippi Administrative Code, Part II, Subpart 4, Chapter 1. Another application from an applicant who is aggrieved at any decision of the Commission shall not be reconsidered within a 12-month period.~~

~~102 — (Reserved)~~

~~Chapter 03 Postponements, Cancellations, And Continuances Of Hearings~~

~~100 — Hearings may be postponed or cancelled by the Chairman of the State Tax Commission.~~

~~101 — Persons requesting such postponement or cancellation are under a duty to contact the Chairman at the earliest possible time prior to the scheduled hearing.~~

Subpart 05 — Native Wine

Chapter 01 — Qualifications For Applicants

- 100 — No permit shall be issued for the production of native wine, whether or not least 51% of the finished product by volume shall have been obtained from fermentation of grapes, fruits, berries, honey or vegetables grown or produced in Mississippi, unless the applicant satisfies the Commission that:
1. — The applicant, individual, or each member of an applicant partnership, or each of the officers, directors, and major stockholders of an applicant corporation, is of good moral character and enjoys a reputation of being a peaceable, law-abiding citizen of the community in which he resides; is generally fit for the trust to be reposed in him; is not less than 21 years of age; and has not been convicted of a felony in any state or federal court; and
 - a. — if the applicant is an individual, he is a resident of the State of Mississippi; and
 - b. — if the applicant is a partnership, each member of the partnership is a resident of the State of Mississippi; and
 - c. — if the applicant is a corporation, the designated manager is a resident of the State of Mississippi.
 2. — The applicant is the true and actual owner of the native wine business for which a permit is desired; intends to carry on the business for himself and not as the agent of any other persons; and intends to superintend in person the management of said business or will designate a manager to manage the business for him. Any such manager must be approved by the Commission and must possess all of the qualifications required of an applicant.
 3. — The place for which a native wine permit is desired is an appropriate one considering the character of the premises and the surrounding neighborhood.
 4. — The applicant is not indebted to the state for any taxes, fees or payment of penalties imposed by any law of the State of Mississippi or by any rule or regulation of the Commission.
 5. — The applicant is not in the habit of using alcoholic beverages to excess, is not physically or mentally incapacitated, and has the ability to read and write the English language.
 6. — The applicant will not sell or knowingly permit any agent, servant or employee to sell native wine in any manner contrary to law.
 7. — The applicant is not residentially domiciled with any person whose permit or license has been cancelled for causes within the 12 months next preceeding the date of the application for the native wine permit.
 8. — The premises for which the native wine permit is sought has not previously been operated, used or frequented for any purpose or in any manner that is lewd or immoral or offensive to public decency.
 9. — No criminal record of the applicant or any of the applicant's employees exists, nor will the applicant knowingly hire an employee who has been convicted of a felony in any state or federal court.

~~10. In addition to the above and foregoing requirements each applicant for a native wine permit, as provided in Section 67-1-51, Mississippi Code of 1972, shall meet all qualifications and requirements presently set forth in the Mississippi Local Option Alcoholic Beverage Control Laws, Rules and Regulations required for permits authorized by said Section 67-1-51.~~

~~101 (Reserved)~~

~~Chapter 02 Permittees Must Comply With Federal Statutes~~

~~100 No person holding any permit issued under the provisions of this chapter shall engage in any business or activity authorized by such permit unless such person shall qualify so to do by complying with all statutes of the United States of America, and all regulations issued pursuant thereto, which are applicable or shall pertain to such business or activity, and shall continue to be so qualified at all times while engaging in such business or activity. As a prerequisite to the issuance of any permit under this chapter, the applicant shall first obtain the required federal occupational stamp for the type of business for which the permit has been approved by the Commission.~~

~~101 (Reserved)~~

~~Chapter 03 Stamps~~

~~100 Persons holding a Class 3, Native Wine Manufacturer's (Producer's) Permit issued pursuant to Mississippi Code Annotated, Section 67-1-51, (1972), shall be required to affix a "Mississippi Native Wine Tax Stamp" to the neck or shoulder of each individual bottle or container of native wine produced, or in the alternative to have clearly imprinted on the label of each bottle the words "Mississippi Native Wine". Such stamps shall be secured from the Alcoholic Beverage Control Division.~~

~~101 (Reserved)~~

~~Chapter 04 Sanitary Codes~~

~~100 All native wines produced under permits issued under Section 67-1-51, Mississippi Code of 1972, shall be produced in accordance with the sanitary codes and production standards required by applicable federal statutes and regulations of the Bureau of Alcohol, Tobacco and Firearms and the Food and Drug Administration of the United States Government.~~

~~101 (Reserved)~~

~~Chapter 05 Three Year Qualification Period~~

~~100 A holder of a Class 3 Native Wine Manufacturer's Permit under Sections 67-1-51, Mississippi Code of 1972, shall be allowed to import such bulk and/or fortified wines~~

~~into this state for use in blending with native wines without payment of any state excise tax that would otherwise accrue thereon. However, with the exception of those permittees granted a three-year qualifications period under Section 67-5-5 (a) (ii), Mississippi Code of 1972, in order to be classified as "native wine" under the provisions of the Mississippi Native Wine Law and the Local Option Alcoholic Beverage Control Law, at least fifty-one percent (51%) of the finished product by volume shall have been obtained from fermentation of grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.~~

~~401—In addition, permit holders shall make available to the Commission or its representatives all records required by the Federal Government, showing the volume of bulk and/or fortified wines imported for blending or fortifying purposes. The Commission shall satisfy itself that the volume of the wines imported does not exceed the volume the permit holder would reasonably be expected to produce from grapes planted in his vineyard, taking into consideration that fifty one percent (51%) of the wine must be produced from grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.~~

~~402—(Reserved)~~

~~Chapter 06—Hours Of Sale~~

~~400—Native wine retailers may make sales of native wines during the same hours as that allowed for package retailers. Provided, however, the governing body of any location may petition the State Tax Commission to permit sales by native wine retailers located within their jurisdiction at other times. Upon receipt of a petition, or upon their own motion, the Commission shall consider the same and set whatever hours of sale it deems appropriate. A certified copy of the resolution of the governing authority requesting such permission must accompany all such petitions.~~

~~401—(Reserved)~~

~~Chapter 07—Locations Where Native Wines May Be Sold And Possessed~~

~~400—All native wine sales made directly to consumers by a native wine retailer, pursuant to Mississippi Code, Annotated, Section 67-5-11 and 67-1-51 (c) must be conducted at an establishment on or near the immediate vicinity of the native winery. Any such establishment must be approved by the State Tax Commission.~~

~~401—Sales of native wines made to alcoholic beverage permittees shall be conducted at the native winery or at the retail establishment.~~

~~402—Native wines may be possessed and consumed throughout the State of Mississippi. Any person purchasing, possessing or consuming said wine must be at least 21 years of age or older and not otherwise prohibited by Mississippi Code, Annotated, Section 67-1-83 (1) and (2). Native wines must, at all times, be labeled or stamped in such a manner to clearly~~

~~identify the product as a Mississippi native wine.~~

~~403 (Reserved)~~

Subpart 05 Native Wine

Chapter 01 Applicant Requirements

~~100 Prior to obtaining a permit, native wine applicants must satisfy the department that they meet the requirements of Miss. Code Ann. Section 67-1-57.~~

~~101 No person holding any permit issued under the provisions of this chapter shall engage in any business or activity authorized by such permit unless such person shall qualify so to do by complying with all statutes of the United States of America, and all regulations issued pursuant thereto, which are applicable or shall pertain to such business or activity, and shall continue to be so qualified at all times while engaging in such business or activity. As a prerequisite to the issuance of any permit under this chapter, the applicant shall first obtain the required federal occupational stamp for the type of business for which the permit has been applied.~~

~~102 Failure of a permittee to maintain the qualifications necessary for the issuance of a permit, including failure to pay any taxes due the State, may result in the revocation or suspension of a permit.~~

~~103 (Reserved)~~

Chapter 02 Production

~~100 In order to be classified as a Mississippi native wine at least 51% of the finished product by volume shall have been obtained from grapes or other sources produced in Mississippi and defined in Miss. Code Ann. Section 67-5-5.~~

~~101 A holder of a Class 3 Native Wine Manufacturer's Permit shall be allowed to import bulk and/or fortified wines into this state for use in blending with native wines. In addition, permit holders shall make available to the Department or its representatives all records required by the Federal Government, showing the volume of bulk and/or fortified wines imported for blending or fortifying purposes. The Department shall satisfy itself that the volume of the wines imported does not exceed the volume the permit holder would reasonably be expected to produce from grapes planted in his vineyard, taking into consideration that fifty-one percent (51%) of the wine must be produced from grapes, fruits, berries, honey or vegetables grown and produced in Mississippi.~~

~~102 Persons holding a Class 3 Native Wine Manufacturer's (Producer's) Permit issued pursuant to Miss. Code Ann. Section 67-1-51 shall be required to have the words Mississippi Native Wine clearly printed on the label of each bottle.~~

103 All native wines produced under permits issued pursuant to Miss. Code Ann. Section 67-1-51 shall be produced in accordance with the sanitary codes and production standards required by applicable federal statutes and regulations of the Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration of the United States Government.

104 (Reserved)

Chapter 03 Taxation

100 Permittee's shall pay the annual tax levied pursuant to Miss. Code Ann. Section 27-71-5 on all wine produced in a given year.

101 Permittee's shall pay the tax levied pursuant to Miss. Code Ann. Section 27-71-7 on all wine sold in a given year unless that wine is sold for export and sale without this state or if the wine is given away as free samples pursuant to Miss. Code Ann. Section 67-5-13. This tax shall be remitted monthly.

103 Permittee's must provide to the department each month statements showing:

4. All sales made to consumers at the native winery or in its vicinity;
5. The gallonage produced during the month; and
6. Gallonage sold or exported for sale during the month.

103 Permittee's who import bulk or fortified wines from without this state to be mixed with native wines shall not pay any excise tax on the imported wine.

104 (Reserved)

Chapter 04 Retail Operations

100 A permit shall not be denied based solely on the fact that the proposed winery is located in a county which is considered dry under Miss. Code Ann. Section 67-1-1 et. seq.

101 A native winery may make sales to consumers at the location of the winery or in its general vicinity. The location of said sales must be pre-approved by the Department.

102 Sales made to consumers shall be for either on-premise or off-premise consumption.

103 Native wine retailers may make sales of native wines during the same hours as that allowed for package retailers. Provided, however, the governing body of any location may petition the Department to permit sales by native wine retailers located within their jurisdiction at other times. Upon receipt of a petition, or upon its own motion, the Department shall consider the same and set whatever hours of sale it deems appropriate. A certified copy of the resolution of the governing authority requesting permission must accompany all such petitions.

Formatted: Indent: Hanging: 0.5", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 102 + Alignment: Left + Aligned at: 0.25" + Indent at: 0.5"

104 Native wineries shall not make direct sales to Mississippi alcoholic beverage permittees.

105 Native wines may be possessed and consumed throughout the State.

106 (Reserved)